

L A W S

OF THE

STATE OF INDIANA,

PASSED AT

THE FORTIETH REGULAR SESSION

OF THE

GENERAL ASSEMBLY,

BEGUN ON THE SIXTH DAY OF JANUARY, A. D. 1859.

BY AUTHORITY.

INDIANAPOLIS:
JOHN C. WALKER, STATE PRINTER,
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CHAPTER I.

AN ACT to amend the sixth, eighth, ninth and fourteenth sections of an act entitled "An act to provide for the appraisement of real estate, and prescribing the duties of officers in relation thereto," approved December 21st, 1858; also defining the duties of Appraisers and Deputy Appraisers, and the Auditor of State.

[APPROVED MARCH 4, 1859.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That section six of an act entitled "An act to provide for the appraisement of real estate, and prescribing the duties of officers in relation thereto," approved December 21st, 1858, which reads as follows, to-wit: Sec. 6 amend ed.

Sec. 6. That it shall be the duty of the appraisers appointed in pursuance of this act, within ten days after their appointment, to proceed to list and appraise all the real estate in his county, subject by law to taxation, as follows, to-wit: Sec. 6 referred to.

First. The said appraiser shall, upon actual view, make a true valuation of all lands, together with the improvements and buildings thereon or affixed thereto, at their full value in money, as he would appraise the same in payment of a just debt due from a solvent debtor, taking into consideration the fertility and quality of the soil, the vicinity of the same to railroads, McAdamized roads, clay roads, turnpike roads, plank roads, State and county roads, cities, towns, villages, navigable rivers, water privileges on the same, or in the vicinity of the same, the location of the route of any canal or canals, with any other local advantages of situation; *Provided*, That said appraiser shall also value all lands at their cash value, without taking into consideration

any improvement that may be made thereon, and this valuation, as well as the valuation with improvements, shall be set down in proper columns provided for that purpose.

Second. In-lots and out-lots in all towns, cities and villages, with the improvements thereon, or affixed thereto, shall be valued at their true and full value in money, taking into consideration all the local advantages of situation. The said appraiser shall also, on actual view, make a true valuation of all lands used or held by railroad companies for road bed, depot or station grounds, gravel pits, switches and side tracks, and all railroad tracks, depot buildings, and other superstructures thereon, according to the same rule herein prescribed for ascertaining the value of other real property, and he shall in the same manner make a true valuation of all McAdamized roads, plank roads, turnpike roads and canals, other than the Wabash and Erie Canal; and also all toll bridges belonging to private persons or private corporations, to be valued upon actual view of the premises, be, and the same is hereby so amended as to read as follows, to-wit:

How amended.

SEC. 6. That it shall be the duty of the appraisers appointed in pursuance of this act, within ten days after their appointment, to proceed to list and appraise all the real estate in his county, subject by law to taxation, as follows, to-wit:

Appraisers to appraise lands, &c

First. The said appraiser shall, on actual view, make a true valuation of all lands, together with the improvements and buildings thereon, or affixed thereto, at their full value in money, as he would appraise the same in payment of a just debt due from a solvent debtor, taking into consideration the fertility and quality of the soil, the vicinity of the same to railroads, McAdamized roads, clay roads, turnpike roads, plank roads, State and county roads, cities, towns, villages, navigable rivers, water privileges on the same or in the vicinity of the same, the location of the route of any canal or canals, with any other local advantages of situation; *Provided,* That said appraiser shall also value all lands at their cash value, without taking into consideration any improvement that may be made thereon, and this valuation, as well as the valuation with improvements, shall be set down in proper columns provided for that purpose.

without improvement.

Town lots.

Second. In-lots and out-lots in all towns, cities and villages, with the improvements thereon, or affixed thereto, shall be valued at their true and full value in money, taking into consideration all the local advantages of situation. The said appraiser shall also on actual view, make a true valuation of all lands, town lots, depot grounds and buildings and improvements thereon, other than road beds, switches and side tracks, and railroad tracks and superstructures thereon, used or held by railroad companies, according to the same rule herein prescribed for ascertaining the value of other real property, and he shall in the same

manner make a true valuation of all lands and town lots, and buildings and improvements thereon, used or held by all McAdamized roads, plank roads, turnpike roads and canals, other than the Wabash and Erie Canal; and all toll bridges belonging to private persons or private corporations, to be valued upon actual view of the premises. The railroad companies of this State shall, on or before the first Monday in April, 1859, furnish to the appraiser of each county through which their respective roads may run, a written statement of the length of line in his county; also a written schedule of the number and description of all the rolling machinery of such company, or used by it upon such road in doing the business thereof, and the value of the same, in which shall be apportioned to each mile of said road the value of said rolling machinery; said schedule and statement to be verified by the Superintendent or manager of such road. The appraisers of the counties through which any road may run, (provided it passes through more than one) shall, on the 2d Monday in April, 1859, meet at such point on the line of such road, as may be designated by the State Auditor, or in case he fails to designate such point, then at such point as may be agreed upon by such appraisers, and then appraise the value of said road per mile, through their respective counties, including in that valuation the value of all the rolling machinery aforesaid, depots, depot grounds and machine shops. In making such estimate of the value of such road, the appraisers shall take into consideration, in addition to the rule prescribed for the valuation of real estate, the location of such road for business, the competition of other roads, its earnings above current expenses and repairs, its condition for present and future business, so as to enable them to arrive at the actual present value of such road, independent of what it cost, or the amount of its indebtedness.

W. and E. Canal
excepted.

Railroad prop-
erty; how apprais-
ed.

Same.

SEC. 2. That section seven, which reads as follows, to wit: Sec. 7 amended.

Sec. 7. The appraiser shall call upon each and every person resident in his county, for a list of all lands and town in-lots and out-lots, owned by such person or persons lying within his county, which may be subject to taxation, which list shall particularly set forth the names of the owner or owners, the number of acres of land in each particular tract, lot, section or sub-division thereof, the range, township, section, quarter section, tract, lot, or part thereof, or the number of the entry, location or survey, and water course, as the nature of the general or particular survey may require; and if the same cannot be described by the congressional survey, then it shall be described by metes and bounds, so as to designate and identify the same, and in the French

and English grants, or Clark's grant, shall set forth the quantity of land contained in the original survey, of which the tract listed is a part, subject to the provisions of this act, the number of entry, water course, and the name of the original proprietor; also, all in-lots and out-lots owned or held as aforesaid, with the number thereof as described in the recorded plat of said lot, or part thereof if it has been sub-divided, which statement shall be made out by the person assessed, or by the appraiser, from information given by such person, and shall be signed by the person making it, be and the same is hereby amended to read as follows:

Statement in general terms.

How described.

SEC. 7. The appraiser shall call upon each and every person resident in his county, for a list of all lands and town in-lots and out-lots, owned by such person or persons, lying within his county, which may be subject to taxation; which list shall set forth in general terms, the names of the owner or owners, the number of acres of land in each particular tract, lot, section or sub-division thereof, the range, township, section, quarter section, tract, lot, or part thereof, or the number of the entry, location or survey, and water course, as the nature of the general or particular survey may require; and in the French and English grants, or Clark's grant, shall set forth the quantity of land contained in the original survey, of which the tract listed is a part, subject to the provisions of this act, the number of the entry, water course, and the name of the original proprietor; also, all in-lots and out-lots owned or held as aforesaid, with the number thereof, as described in the recorded plat of said town or part thereof, if it has been sub-divided, which statement shall be made out by the person assessed or by the appraiser, from information given by such person, and shall be signed by the person making it.

Sec. 8 amended.

SEC. 3. That section eight of said act, which reads as follows, to-wit:

Sec. 8. If the owner or owners of any property required to be listed and appraised by the preceeding section of this act, shall be absent or unable to give in a list thereof, when called upon by the appraiser, or if the owner or owners thereof shall not reside within the county, or shall fail or refuse to deliver to such appraiser a list of his or her, or their real estate as aforesaid, it shall be the duty of such appraiser to make a list thereof, according to the best information he can obtain, subject to the provisions of the ninth section of this act, in the name of the owner, if known, or in the name of the person to whom the same is now listed; but if it be not listed, and the owner's name be unknown, then it shall be noted that the owner is unknown, in the column of names; and to enable him so to do, he is hereby authorized to examine on oath or affirmation, any person whom he may suppose to have knowledge of the amount and value of all lands which such person refused to list as required, be, and the same is hereby so amended as to read as follows, to-wit:

SEC. 8. If the owner or owners of any property required to be listed and appraised by the preceding section of this act shall be absent or unable to give in a list thereof, when called upon by the appraiser, or if the owner or owners thereof shall not reside within the township, or shall fail or refuse to deliver to such appraiser a list of his, her, or their real estate as aforesaid, it shall be the duty of such appraiser to make a list thereof according to the best information he can obtain, subject to the provisions of the ninth section of this act, in the name of the owner, if known, or in the name of the person to whom the same is now listed; but if it be not listed, and the owner's name be unknown, then it shall be noted that the owner is unknown, in the column of the names, and to enable him so to do, he is hereby authorized to examine on oath or affirmation, any person whom he may suppose to have knowledge of the amount and *description* of all land which such person failed or refused to list as required, and such appraiser is hereby authorized to administer such oath or affirmation.

Non-resident
property. How
appraised.

SEC. 4. That section nine of said act, which reads as follows, to-wit:

Sec. 9, amended.

"Sec. 9. The appraiser, in ascertaining or determining the quantity of land in the several tracts within his county, shall be governed by the following rules: Whenever the owner or person in whose name it is listed, shall hold, by virtue of a deed from another party, or from the State of Indiana, or by patent from the United States for Congress land, such deed or patent, if the quantity be therein stated, shall be taken and received as the evidence of the quantity in the tract described; but if such land shall have been surveyed subsequent to the survey made by the United States, and it shall be proven to the satisfaction of the appraiser that any such tracts of land contain a greater or less quantity than is described in the patent or deed under which such lands are held, then the appraiser shall charge the owner with the true quantity as ascertained by such subsequent survey. If the owner or person in whose name any lands are listed within the French or Clark's grant, shall hold under an original entry or survey, with or without the patent thereon, it shall be the duty of the appraiser to require the said owners or holders to cause the same to be surveyed by the county surveyor, or some other competent person, and to return the quantity under the certificate of such surveyor, attested by oath or affirmation, within thirty days after said owners or holders shall have been called upon to list their lands for taxation, and if such owner or holder shall refuse or neglect to survey and list his lands as herein provided, or if he, she, or they be non-residents of the county, then it shall be the duty of the appraiser to cause such lands to be surveyed and returned to himself; the expenses of which survey shall be reported to the County Auditor and paid out of the county treasury, and be by the Auditor of the county assessed against such lands and collected in the same manner as taxes are collected thereon: *Provided*, That if any owner or holder of lands has had the same previously surveyed, and shall produce to the appraiser a certificate of survey other than that under the original entry of said lands, such survey shall be taken by such appraiser; or if the appraiser shall be satisfied, from

other competent evidence adduced to him, under oath or affirmation, that the quantity returned is correct, and that no surplus exists in the original survey, he shall enter and return the same without further survey for taxation: *Provided*, That there shall be deducted from the lands owned by any person, as shown by such deed or survey, the amount of the same occupied by any railroad, canal or public highway, be, and the same is hereby so amended, to read as follows, to-wit:

Rules for ascertaining quantity of land, &c.

Congress land.

French or Clark's grant.

Appraiser. How paid.

Proviso.

SEC. 9. The appraiser in ascertaining or determining the quantity of land in the several tracts within his county shall be governed by the following rules: Whenever the owner or person in whose name it is listed shall hold, by virtue of a deed from another party, or from the State of Indiana, or by patent from the United States, for Congress land, such deed or patent, if the quantity be therein stated, shall be taken and received as the evidence of the quantity in the tract described; but if such land shall have been surveyed subsequent to the survey made by the United States, and it shall be proven to the satisfaction of the appraiser that any such tracts of land contain a greater or less quantity than is described in the patent or deed under which such lands are held, then the appraiser shall charge the owner with the true quantity as ascertained by such subsequent survey. If the owner or person in whose name any lands are listed within the French or Clark's grant shall hold under an original entry or survey, with or without the patent thereon, it shall be the duty of the appraiser to require the said owners or holders to cause the same to be surveyed by the county surveyor, or some other competent person, and to return the quantity under the certificate of such surveyor, attested by oath or affirmation, within thirty days after said owners or holders shall have been called upon to list their lands for taxation, and if any such owner or holder shall refuse or neglect to survey and list his lands as herein provided, or if he, she, or they be non-residents of the county, then it shall be the duty of the appraiser to cause such lands to be surveyed and returned to himself; the expense of which survey shall be reported to the County Auditor and paid out of the county treasury, and be by the Auditor of the county assessed against such lands and collected in the same manner as taxes are collected thereon: *Provided*, That if any owner or holder of lands has had the same previously surveyed, and shall produce to the appraiser a certificate of survey other than that under the original entry of said lands, such survey shall be taken by such appraiser; or if the appraiser shall be satisfied from other competent evidence adduced to him, under oath or affirmation, that the quantity returned is correct, and that

no surplus exists in the original survey, he shall enter and return the same without further survey for taxation; *Provided*, That the appraiser may deduct from the value of such tract of land owned by any person, the amount of the land occupied and used by any railroad or canal at the time of such appraisement. Proviso.

SEC. 5. That section 13 of said act, which reads as follows:

Sec. 13. Each appraiser shall, on or before the fourth Monday of May next after his appointment or election, make out and deliver to the auditor of his county, a return, by civil townships, in tabular form and alphabetical order, contained in a book to be furnished him by such auditor, of the amount, description and value of all the real estate subject to be listed for taxation in his county, which return shall contain— Sec. 13 amended.

First. The names, arranged in alphabetical order, of the several persons, companies or corporations, in whose name the several parcels of real estate in each township within his county shall have been listed, and in appropriate columns, opposite each name, the description of each parcel of such real estate listed in such name, and the value of each separate parcel of such real property, as determined by the appraiser from actual view.

Second. The names, arranged in alphabetical order, of the several persons, companies, or corporations in whose names the several parcels of real property in any town or towns in his county shall have been listed, and in the appropriate columns, opposite each name, the description of each parcel of real property in each town in his county, and the value thereof, as determined by the appraiser, as above specified, and such return shall distinctly set forth the name or names of the owner or owners of each separate parcel of real property, if known, and if unknown, that fact shall be set forth. Also, a correct and pertinent description of each separate parcel of land or real property; if a town lot, or part thereof, the name of the town, the number or other designation of the lot, and if a part of such lot, then the proportion and situation thereof, and the extent in feet along the principal street on which it shall abut. If the parcel of real property be other than a town lot, or a parcel thereof, the number of acres, the range of townships, the number of townships, the number of sections, tract, lot, or sub-division of either, as the case may require. If such land be situated in the French or Clark's grant, or is not embraced in any land district, it shall set forth the original survey or surveys, part or parts thereof, contained in each separate parcel so listed; and if any separate parcel of land shall comprehend the whole or parts of any two or more sections, lots, tracts or surveys, then the statement shall set forth as nearly as may be, the number of acres taken from each section, lot, tract or survey included in each parcel, be, and the same is hereby amended to read as follows:

SEC. 13. Each appraiser shall, on or before the fourth Monday of May next after his appointment or election, make out and deliver to the Auditor of his county, a return by civil townships, in tabular form and alphabetical order, contained in a book to be furnished him by such auditor, of Amendment.

the amount, description and value of all the real estate subject to be listed for taxation in his county, which return shall contain—

Order of appraisal.
First. Name in each township.

First. The names, arranged in alphabetical order, of the several persons, companies or corporations, in whose name the several parcels of real estate in each township within his county shall have been listed, and in appropriate columns, opposite each name, the description, in manner as hereinafter required, of each parcel of such real estate, listed in such name, and the value of each separate parcel of such real property, as determined by the appraiser from actual view.

Second. Town property.

Second. The names, arranged in alphabetical order, of the several persons, companies or corporations in whose names the several parcels of real property in any town or towns in his county shall have been listed, and in the appropriate columns, opposite each name, a description as hereafter set forth, of each parcel of real property in each town in his county, and the value thereof, as determined by the appraiser, as above specified, and such return shall distinctly set forth the name or names of the owner or owners of each separate parcel of real property, if known, and if unknown, that fact shall be set forth. Also, a description of each separate parcel of land or real property, in the following manner: if a town lot or part thereof, the name of the town, the number or other designation of the lot; and if a part of such lot, then the proportion and situation thereof, and the extent in feet along the principal street on which it shall abut. If the parcel of real property be other than a town lot, or a parcel thereof, the number of acres, the range of townships, the number of townships, the number of sections, tract, lot, or sub-division of either, or other general designation of any sub-division, if there be no number, as the case may require. If such land be situated in the French or Clark's grant, or is not embraced in any land district, it shall set forth the original survey or surveys, part or parts thereof, contained in each separate parcel so listed; and if any separate parcel of land shall comprehend the whole or parts of any two or more sections, lots, tracts or surveys, then the statement shall set forth, as nearly as may be, the number of acres taken from each section, lot, tract or survey, included in each parcel.

Lands.

French or Clark's grant.

SEC. 6. That section fourteen of said act, which reads as follows, to-wit:

Sec. 14 amended.

Sec. 14. Each appraiser and deputy appraiser shall take and subscribe an oath which shall be certified by the magistrate or other offi,

cer administering the same, and attached to the return he is required to make to the county auditor, in the following form :

I, ———, Appraiser of the county of ——— in the State of Indiana, do solemnly swear that the return to which this is attached, contains a correct description of each parcel of real property within said county, as far as I have been able to ascertain the same; that the value attached to each parcel of said return, is, as I verily believe, the full and true cash value thereof, estimated agreeably to the rules prescribed by law; that in no case have I knowingly omitted to demand a statement of the description and value of all the real estate which I am required by law to list, or in any way connived at any violation or evasion of any of the requirements of the law in relation to the listing and valuing real estate.

Which abstract shall be kept at the office of the county auditor for the inspection of any owner of property contained on such abstract; and it shall be the duty of the county auditor to give two weeks public notice by advertisement in a newspaper, if one be published in the county, or, if no newspaper be printed in the county, by advertisement set up at the door of the court-house, and at some public place in each township, of the time and place, when and where the board of equalization of such county will meet for the purpose of hearing and determining grievances, and to equalize appraisements thereon, be and the same hereby is so amended to read as follows, to-wit:

Each appraiser and deputy appraiser shall take and subscribe an oath, which shall be certified by the magistrate, or other officer administering the same, and attached to the return he is required to make to the county auditor in the following form :

Appraiser to take oath.

I, ———, Appraiser of the county of ——— in the State of Indiana, do solemnly swear that the return to which this is attached, contains a correct description of each parcel of real property within said county, as far as I have been able to ascertain the same; that the value attached to each parcel of said return is, as I verily believe, the full and true cash value thereof, estimated agreeably to the rules prescribed by law; that in no case have I knowingly omitted to demand a statement of the description of all the real estate which I am required by law to list, or in any way connived at any violation or evasion of any of the requirements of the law in relation to the listing and valuing real estate.

Form of oath.

Which abstract shall be kept at the office of the county auditor for the inspection of any owner of property contained on such abstract; and it shall be the duty of the county auditor to give two weeks public notice by advertisement in a newspaper, if one be published in the county, or, if no newspaper be printed in the county, by advertisement, set up at the door of the court-house, and at some public place in each township, of the time and place, when and where, the board of equalization of such county will

To be kept in auditor's office.

meet for the purpose of hearing and determining grievances, and to equalize appraisements thereon.

Duty of deputy appraiser.

SEC. 7. Each deputy appraiser shall on or before the third Monday of May in each year, in which the real estate is to be appraised, make return of all taxable real property by him appraised to the principal appraiser, the same arranged in alphabetical order by civil townships, and also deliver to him all the statements and descriptions of property, which he shall have received from persons required to be listed. The said principal appraiser shall make return of the description and value of all the property appraised by himself or deputy to the county auditor, as is prescribed in section thirteen of the act to which this is an amendment.

SEC. 8. Also that section twenty of said act, which reads as follows, to-wit:

Sec. 20 amended.

SEC. 20. Each appraiser shall, at the time he is required by this act to make return of the taxable real property to the County Auditor, also deliver to him all the statements of property which he shall have received from persons required to list real estate, the same arranged in alphabetical order by civil townships, and said Auditor shall carefully file and preserve the same in his office, be amended to read as follows, to-wit:

Statement to be preserved in "auditor's office"

SEC. 20. Each appraiser shall, at the time he is required by this act to make return of the taxable real property to the County Auditor, also deliver to him all the statements of property which he shall have received from persons required to list real estate, the same arranged in alphabetical order by civil townships, and said Auditor shall carefully *preserve* the same in his office.

Auditor of State to have 2,000 copies printed.

SEC. 9. The Auditor of State is hereby required to have two thousand copies of the "Act to provide for the appraisal of real estate, and prescribing the duties of officers in relation thereto, approved December 21st., 1858," with the amendments made to said act by this act, *printed*, and forward the *pro rata* share of the same to each County Auditor, for the use of the appraisers, as soon as the same is printed.

Emergency.

SEC. 10. That inasmuch as the appraisers of real estate are now engaged in appraising the real property for taxation, and much difficulty and misunderstanding prevails as to the portion of said act herein amended, an emergency exists for the immediate taking effect of this act, therefor this act shall be in force from and after its passage and publication.

CHAPTER II.

AN ACT making general appropriations for the years 1859 and 1860,
and the first quarter of the year 1861.

[APPROVED MARCH 5, 1859.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That for the purpose of meeting the expenses of the State government, for the year one thousand eight hundred and fifty-nine, the following sums are hereby appropriated, namely: For the General Assembly, seventy-five thousand dollars; for the judiciary, twenty-five thousand dollars; for prosecuting attorneys, six thousand eight hundred dollars; for the executive officers and their clerks, twelve thousand four hundred dollars; for public printing, twenty thousand dollars; for fuel and stationery, four thousand dollars; for the State House, one thousand dollars; for the Governor's House, one thousand dollars; for sheriffs' mileage, ten thousand dollars; for the State Prison, five thousand dollars; for the State Library, one thousand five hundred dollars; for the contingent fund, two thousand dollars; for the militia fund, two hundred dollars; for the distribution of laws and journals, one thousand dollars; for miscellaneous disbursements, three thousand dollars; for reports of Supreme Court, four thousand dollars; for expenses of Supreme Court, one thousand five hundred dollars; for the salary of the Agent of State, two thousand five hundred dollars; for the incidental expenses of the State agency, one thousand dollars.

Appropriations
for 1859.

SEC. 2. That for the payment of interest on the foreign debt of the State, the sum of three hundred and twenty thousand dollars be appropriated; and for the payment of interest on the State University bonds, the sum of three thousand nine hundred and thirty-five dollars and ten cents be appropriated.

Interest on foreign debt, &c.

SEC. 3. That the sum of fifteen thousand dollars be appropriated for the Indiana Institution for the Education of the Blind.

Blind Asylum.

SEC. 4. That the sum of twenty-five thousand dollars be appropriated for the Indiana Institution for the Education of the Deaf and Dumb.

Deaf and Dumb Asylum.

Insane Hospital. SEC. 5. That the sum of thirty-five thousand dollars be appropriated for the Indiana Hospital for the Insane.

Appropriations for 1860. SEC. 6. That for the support of the State government, for the year one thousand eight hundred and sixty, the following sums are hereby appropriated, namely: For the judiciary, twenty-five thousand dollars; for the executive officers and their clerks, twelve thousand four hundred dollars; for prosecuting attorneys, six thousand eight hundred dollars; for public printing, ten thousand dollars; for fuel and stationery, four thousand dollars; for the State House, seven hundred dollars; for the Governor's House, one thousand dollars; for sheriffs' mileage, ten thousand dollars; for the State Prison, five thousand dollars; for the State Library, one thousand five hundred dollars; for contingent fund, two thousand dollars; for the militia, two hundred dollars; for the distribution of laws, five hundred dollars; for the reports of the Supreme Court, four thousand dollars; for the expenses of the Supreme Court, one thousand five hundred dollars; for miscellaneous expenses, three thousand dollars; for the salary of the Agent of State, two thousand five hundred dollars; for the incidental expenses of the State agency, one thousand dollars.

Interest on foreign debt, &c. SEC. 7. That for the payment of interest on the foreign debt of the State, the sum of three hundred and twenty thousand dollars be appropriated; and for the payment of interest on the State University bonds, the sum of three thousand nine hundred and thirty-five dollars and ten cents, be appropriated.

Blind Asylum. SEC. 8. That the sum of fifteen thousand dollars be appropriated for the Indiana Institution for the Education of the Blind.

Deaf and Dumb Asylum. SEC. 9. That the sum of twenty-five thousand dollars be appropriated for the Indiana Institution for the Education of the Deaf and Dumb.

Insane Hospital. SEC. 10. That the sum of thirty-five thousand dollars be appropriated for the Indiana Hospital for the Insane.

Redemption of bonds and interest due, July 1, 1860. SEC. 11. That for the payments of the bonds of the State, which become due July 1, 1860, and interest thereon, the sum of one hundred and seventy-nine thousand eight hundred and fifty dollars be appropriated.

Appropriations for first quarter of 1861. SEC. 12. That for the purpose of meeting the expenses of the State government for the first quarter of

the year one thousand eight hundred and sixty-one, ending the 31st day of January, 1861, the following sums are hereby appropriated, namely: For the judiciary, six thousand two hundred and fifty dollars; for the executive officers and their clerks, three thousand one hundred dollars; for prosecuting attorneys, one thousand seven hundred dollars; for public printing, five thousand dollars; for fuel and stationery, one thousand dollars; for the State House, four hundred dollars; for the Governor's House, two hundred and fifty dollars; for sheriffs' mileage, two thousand five hundred dollars; for the State Prison, one thousand two hundred and fifty dollars; for the State Library, four hundred dollars; for the contingent fund, five hundred dollars; for the militia, fifty dollars; for the reports of the Supreme Court, five hundred dollars; for the expenses of the Supreme Court, four hundred dollars; for miscellaneous expenses, eight hundred dollars; for the salary of the Agent of State, six hundred and twenty-five dollars; for the incidental expenses of the State agency, two hundred and fifty dollars; for the Indiana Institute for the Education of the Blind, four thousand dollars; for the Indiana Institution for the Education of the Deaf and Dumb, six thousand two hundred and fifty dollars; for the Indiana Hospital for the Insane, nine thousand dollars.

SEC. 13. That for the payment of the amount due to the common school fund, the sum of one hundred and eighty-six thousand eight hundred and sixty-one dollars and sixty-four cents, and such further sum as may be necessary at the time of such payment, to pay the interest that may have then accrued thereon, be appropriated.

Due Common
School Fund.

SEC. 14. That for the purpose of repairs to the heating apparatus, furniture, and insurance upon the building and furniture, for the Deaf and Dumb Asylum, the sum of six thousand dollars is hereby appropriated, to be expended under the direction of the president, trustees and superintendent of the institution.

Repairs, insurance,
&c., of
Deaf and Dumb
Asylum.

SEC. 15. That the sum of two hundred dollars, for the year 1859, and the further sum of two hundred dollars for the year 1860, be and the same is hereby appropriated for the purpose of replenishing the library for the Hospital for the Insane, to be expended under the direction of the president, trustees and superintendent of the institution.

Replenishing Li-
brary of Insane
Hospital, 1859
and 1860.

Supplying water
to Insane Hospi-
tal.

SEC. 16. That the sum of one thousand dollars be and the same is hereby appropriated for the purpose of supplying water for the Hospital for the Insane, to be expended under the direction of the president, trustees and superintendent of the institution, who are hereby required to let the contract to the lowest responsible bidder.

Furniture for In-
sane Hospital.

SEC. 17. That the sum of one thousand dollars, for the year 1859, and the further sum of one thousand dollars for the year 1860, be and the same are hereby appropriated for the purpose of procuring durable and substantial furniture for the Hospital for the Insane, to be expended under the direction of the president, trustees and superintendent of the institution.

Liquidation of
debts of Insane
Hospital.

SEC. 18. That the sum of seven thousand and eighty-two dollars and forty-two cents, be and the same is hereby appropriated, for the purpose of liquidating the following indebtedness of the Hospital for the Insane, viz: To Greenwood & Co., five thousand five hundred and seventeen dollars and forty cents; to Thomas Borrowman, nine hundred and twenty-eight dollars and thirty-one cents; to Nixon & Co., five hundred and twenty-three dollars and sixteen cents; and to Root & Co., one hundred and eleven dollars and fifty-five cents, to be paid out under the direction of the president, trustees and superintendent of the institution.

Piano, &c., for
Blind Asylum.

SEC. 19. That the sum of three hundred dollars, for the purpose of purchasing one piano for the Asylum of the Blind, and the further sum of three hundred dollars, for the purpose of repairing the heating apparatus of said Asylum, be and the same are hereby appropriated, to be expended under the direction of the president, trustees and superintendent of the institution.

Current expenses
of benevolent in-
stitutions.

SEC. 20. That the sum of two hundred dollars per annum be allowed the Superintendent of the Asylum for the Deaf and Dumb, and that the sum of three hundred dollars per annum be allowed the Superintendent of the Hospital for the Insane, and that the sum of two hundred dollars per annum be allowed to the Superintendent of the Asylum for the Blind, to be paid out of the funds appropriated for the current expenses of said Institutions.

Bibles for State
Prison.

SEC. 21. That the sum of two hundred dollars be and the same is hereby appropriated for the purchase of bibles for the use of the State Prison, out of the State Treasury.

SEC. 22. Because of the necessity that some of the appropriations made under this act should be at once applied towards the payment of the current expenses of the State, it is declared that an emergency exists for the immediate taking effect of this act, therefore, the same shall take effect and be in force from and after its passage. Emergency.

CHAPTER III.

AN ACT making Specific Appropriations, for the year A. D. 1859.

[APPROVED MARCH 5, 1859.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That Richard J. Ryan, Principal, and George H. Chapman, Assistant Clerk of the House of Representatives, be allowed the sum of two hundred and forty-four dollars each, for sixty-one days' services each as such Clerks during the present session of the General Assembly. R. J. Ryan and
G. H. Chapman.

SEC. 2. That Richard J. Ryan and George H. Chapman, Clerks, be allowed the sum of one hundred and fifty dollars for preparing the index and superintending the printing of the House Journal of the present session.

SEC. 3. That J. A. Stillwell, C. G. Berry, J. W. B. Howard, H. M. Dougherty, G. R. Morgan and D. A. Farley, assistants to the Principal Clerk, be allowed four dollars each per day, for sixty-one days' service as such Clerks during the present session. Assistant Clerks
of House.

SEC. 4. That the following persons be allowed four dollars per day for the number of days as herein stated, to-wit: Charles Smith, twenty-eight days; Bryant Walpole, eight days; William Quarles, two days; Hugh Nealy, twelve days, and W. K. Smith twelve days for services as Assistant Clerks to [the] Principal Clerk of the House.

SEC. 5. That the following persons be allowed four dollars per day, as assistant clerks to the Assistant Clerk of the House for the number of days attached to their respective names, to-wit: Robert O. Dormer, sixty-one days; William F. Browning, sixty-one days; Charles

M. Walker, fifty-six days, and W. W. Hester, five days.

Principal Door-
keeper.

SEC. 6. That Robert Jennings, Principal Doorkeeper of the House, be allowed three dollars per day, for each day he has served as such during the present session; and A. J. Smedley, H. N. Stevenson, J. F. Dougherty, J. McDonald, J. Campbell, F. Gregory and Thomas W. Armstrong, assistants of said Doorkeeper, be each allowed three dollars per day for their services during the present session, being sixty-one days each.

Assistant Door-
keeper.

A. E. Elkins and
Wm. Gorham.

SEC. 7. That A. E. Elkins be allowed four dollars per day for sixty-one days, for attending furnace during the present session, and William Gorham the same rate per day for forty-five days, for similar services during this session.

Messengers.

SEC. 8. That Warren Tebbs be allowed three dollars per day, and Columbus Cotton, Michael O'Conner, E. Merryman and Dennis Mulany, be allowed each two dollars per day for services, as pages, messengers and attending committee rooms, for sixty-one days during the present session.

Peter Hoy.

SEC. 9. That Peter Hoy be allowed seventy-one dollars for services as clerk of the committee of ways and means.

Jno. H. Rea.

SEC. 10. That John H. Rea be allowed four dollars per day for each day he may be necessarily employed in examining the office of the State Agent, the time actually employed in such examination to be ascertained and certified by the Governor.

T. G. Palmer.

SEC. 11. That T. G. Palmer be allowed the sum of three dollars per day for each day he may have been employed as clerk of the committee of ways and means during the present session of the General Assembly, the time so employed to be certified by the chairman of said committee.

Jas. M. Sharpe.

SEC. 12. That James M. Sharp be allowed three dollars for any day he may have been employed as clerk to the committee of ways and means during the present session of the General Assembly, the time so employed to be certified by the chairman of said committee.

Lewis Bollman.

SEC. 13. That Lewis Bollman be allowed three dollars per day for every day that he may have been employed as clerk to the committee on public expenditures and ways and means during the present session of the General Assembly, the time so employed to be certified by the chairman of such committees, and not to exceed sixty-one days service for both committees.

SEC. 14. That Robert C. Foster be allowed three dollars per day for each day he has been employed as clerk to the committee of ways and means during the present session of the General Assembly, the time so employed to be certified by the chairman of such committee. Robt. C. Foster.

SEC. 15. That Aquilla Jones, late Treasurer of State, be allowed one hundred and fifty-six dollars for worthless coupons, counterfeit and broken bank notes, examined and burned by the committee on ways and means. Aquilla Jones.

SEC. 16. That George Dixon be allowed fifty dollars for cleaning privy and spittoons at the State House during the present session of the General Assembly. George Dixon.

SEC. 17. That Joseph Wainscott and ——— Woodward be allowed fifteen dollars each, for attending the furnaces of the State House. J. Wainscott and
— Woodward.

SEC. 18. That Sheets & Braden be allowed sixteen dollars and fifty cents for stationery furnished the House at special session of 1858. Sheets & Braden.

SEC. 19. That Charles Mayer be allowed two dollars and fifty cents for two baskets furnished. Chas. Mayer.

SEC. 20. That Nelson Johnson, of Gibson county, be allowed the sum of fifty dollars for collecting State arms, to be paid when satisfactory evidence is furnished to the Auditor of State that such service has been rendered, and that the allowance therefor is reasonable and just. Nelson Johnson.

SEC. 21. That John Ott be allowed thirty-two dollars for chair furnished for the Speaker of the House of Representatives. John Ott.

SEC. 22. That Jacob Stofer be allowed eight hundred dollars for damages due from the State on land contract. Jacob Stofer.

SEC. 23. That Thomas S. Stanfield be allowed seventy-five dollars for services and expenses under the order of the House in the case of the contest of the seat of James Firestone, a member from the counties of Whitley and Huntington. T. S. Stanfield.

SEC. 24. That R. Jennings be allowed the sum of nine dollars for services in fitting up the Hall of the House of Representatives. R. Jennings.

SEC. 25. That J. T. Dougherty be allowed the sum of nine dollars, for services in fitting the Hall of the House of Representatives. J. T. Dougherty.

SEC. 26. That Speigel, Thomas & Co., be allowed one dollar and fifty cents for one stool. Speigel, Thomas
& Co.

SEC. 27. That Robert Browning be allowed the sum R. Browning.

of one dollar and ninety-five cents for sundries furnished on order of the Doorkeeper of the House.

Stewart & Bowen SEC. 28. That Stewart & Bowen be allowed the sum of two hundred and ten dollars and eight cents for stationery as per bill filed.

Curtis Gilpin. SEC. 29. That Curtis Gilpin be allowed the sum of eighteen dollars for services in prosecuting the pleas of the State in Rush county.

Jacob Lindley. SEC. 30. That Jacob Lindley be allowed the sum of four dollars for pitcher and tumblers.

E. T. Arnold. SEC. 31. That E. T. Arnold be allowed two dollars and fifty cents for two days labor in State House cellar.

Merrill & Co. SEC. 32. That Merrill & Co. be allowed the sum of six dollars and seventy cents for stationary.

Jeremiah Sheah. SEC. 33. That Jeremiah Sheah be allowed seventy-five dollars for carrying the mail matter from the Senate and House of Representatives during the present session.

F. Burgtorf. SEC. 34. That Frederick Burgtorf be allowed thirty-two dollars for repairs, materials, and work done in and about the State House, in full of his two accounts filed.

J. B. Perrine SEC. 35. That J. B. Perrine be allowed one dollar and seventy-five cents for pens and inkstand furnished,

Jas. Farmer. SEC. 36. That James Farmer be allowed two dollars and fifty cents for two days work in State House cellar.

Bates House. SEC. 37. That the Bates House be allowed ten dollars for omnibus hire in conveying the Senate and House committees on benevolent institutions to the Insane Hospital.

A. J. Smedley. SEC. 38. That A. J. Smedley be allowed four dollars and fifty cents for one and a half days service in cleaning the hall of the House of Representatives at the beginning of the present session.

R. Henninger. SEC. 39. That Richard Henninger be allowed one hundred and forty-four dollars for copies of the Indiana Free Press furnished the House of Representatives during the present session.

Sentinel Co. SEC. 40. That the Sentinel Company be allowed seven hundred and sixty-five dollars for three hundred copies daily, of the Indiana Daily State Sentinel, two hundred of which were enveloped and stamped, furnished the House of Representatives during the present session.

Journal Co. SEC. 41. That the Indianapolis Journal Company be allowed seven hundred and sixty-five dollars for three hundred copies daily, of the Indianapolis Daily Journal, two hundred of which were enveloped and stamped,

furnished the House of Representatives during the present session.

SEC. 42. That Julius Boetticher be allowed one hundred and forty-four dollars for the copies of the Indiana Volksblatt enveloped and stamped, furnished the House of Representatives during the present session. Julius Boetticher

SEC. 43. That A. E. & W. H. Drapier be allowed five hundred dollars for the Legislative Sentinel furnished the House of Representatives during the present session as per contract. A. E. & W. H. Drapier.

SEC. 44. That there be allowed to the following members of the House of Representatives for visiting and examining the State Prison during the recess, being members of the House committee on the State Prison, and for mileage in going to and returning therefrom, the amounts following: To L. Prosser, thirty-eight dollars and sixty-four cents; to L. Ritter, thirty-five dollars; to Joseph B. Fordyce, forty-four dollars and forty cents; to M. G. Sherman, forty-four dollars and twenty cents; to N. C. Durham, forty-one dollars and twenty cents; to C. L. Murray, thirty-five dollars; to A. J. Carr, fourteen dollars and sixty-four cents; to T. Shields, twenty-five dollars; and to M. C. Hunter, twenty-five dollars. State Prison visiting committee.

SEC. 45. That J. E. Borum be allowed the sum of five dollars for two gates in the lobbies of the hall of the House of Representatives. J. E. Borum.

SEC. 46. That Addison Elkins be allowed twelve dollars for preparing Hall of Representatives for use at the extra session. A. Elkins.

SEC. 47. That Patrick Hosley be allowed one dollar and fifty cents for hauling four loads of books from Auditor's office. Pat. Hosley.

SEC. 48. That James Griffin and Patrick Powers be allowed each two dollars per day for sixty-one days each, sawing wood and making kindling, and sweeping hall—employed by the Governor for that purpose; but no other compensation than herein allowed is to be paid them. Jas. Griffin and Pat. Powers.

SEC. 49. That George H. Cleary be allowed fifteen dollars for gas shades and repairs of gas pipes in the Hall of Representatives. Geo. H. Cleary.

SEC. 50. That John Young receive, as clerk of the committee on education, three dollars for each day that he may have been employed, to be certified by the chairman of the committee. John Young.

- C. W. Edwards. SEC. 51. That Caleb W. Edwards be allowed the sum of one hundred and eight dollars as *per diem* during the extra session of 1858, and the sum of thirty-four dollars for his mileage from Whitely county to the capitol to attend the same.
- John Farrah. SEC. 52. That John Farrah, doorkeeper of judiciary committee, be allowed three dollars per day for sixty-one days, and for cleaning room one day.
- John K. Cravens. SEC. 53. That John K. Cravens, clerk of the judiciary committee, be allowed for sixty-one days.
- Late Treasurer of State. SEC. 54. That the Auditor and Treasurer of State be and they are hereby authorized to allow out of the swamp land fund to the late Treasurer of State one-fourth of one per cent. upon the amount of said fund by him received, and one-fourth of one per cent. upon the amount of said fund by him disbursed; and upon ascertaining the amount, to issue a warrant therefor.
- John T. Elliott, W. T. Otto and Newman Eddy. SEC. 55. That the Governor be required to make such allowance to John T. Elliott, William T. Otto and Newman Eddy as he may think just and proper for their services in discharging the trusts and duties imposed upon them by the first resolution of this General Assembly, the same to be audited and paid as other appropriations.
- Charles Cox. SEC. 56. That Charles Cox be allowed six hundred dollars for two hot air furnaces and fixtures therewith connected, and placing them in the capitol, as per bill on file.
- A. L. Jones. SEC. 57. That A. Lytle Jones be allowed the sum of one hundred dollars for services as assistant prosecuting attorney, rendered at the March term, 1858, of the La-porte Circuit Court, under the direction of said Court.
- George H. Chapman. SEC. 58. That George H. Chapman be allowed twenty dollars for making out list of acts passed by the House during present session, in obedience to resolution of the House; and that James H. Vawter and James A. Tyner be allowed ten dollars each for a like service in the Senate.
- George H. Chapman. SEC. 59. That George H. Chapman be allowed five dollars for services rendered by order of the House, in having bound the *Legislative Sentinel* of the extra session.
- B. J. Ryan. SEC. 60. That Richard J. Ryan be allowed the sum of thirty-five dollars for extra clerk hire.
- T. J. Hosford. SEC. 61. That T. J. Hosford be allowed three dollars per day for the days served by him as clerk of the committee on roads; the time to be certified by the chairman of that committee.

SEC. 62. That H. A. Fletcher be allowed the sum of H. A. Fletcher.
\$1,564 05 [fifteen hundred and sixty-four dollars and five
cents] for carpets and sundries furnished for State House.

SEC. 63. That Klotz & Pfaefflin be allowed ninety Klotz & Pfaefflin.
cents for candles and candlesticks furnished at this ses-
sion.

SEC. 64. That O. B. Stout & Bros. be allowed one O. B. Stout &
Bros.
dollar for brooms furnished the House of Representa-
tives at this session.

SEC. 65. That Charles Mayer be allowed fifty-five Charles Mayer.
cents for candles and candlesticks furnished the House
this session.

SEC. 66. That the Indianapolis Sentinel Company Sentinel Co. and
Miner Meeker.
be allowed twenty-five dollars for binding 200 copies of
the *Legislative Sentinel* for the special session; and that
Miner Meeker be allowed fifteen dollars as a witness be-
fore the bank fraud investigating committee.

SEC. 67. That Hiram Lindley be allowed the sum of Hiram Lindley.
three dollars per day for seven days' service as clerk of
the investigating committee on the difficulty in the Sen-
ate Chamber between Messrs. Heffren and Gooding.

SEC. 68. That John Osborn and Montgomery Marsh John Osborn.
each be allowed three dollars for one day putting the
Senate Chamber in repair for the present session of the
General Assembly.

SEC. 69. That D. O. Dailey be allowed three dollars D. O. Dailey.
per day for forty days' attendance at the session of 1857,
as contestant of the seat of Le Roy Woods, Senator
from the county of Clark, and the usual mileage of a
member.

SEC. 70. That M. D. Hamilton be allowed three dol- M. D. Hamilton
lars per day for twenty-four days, in making a catalogue
for the State Library, in accordance with resolution of
the Senate.

SEC. 71. That the sum of ten thousand dollars be State Prison.
and the same is hereby appropriated for the purpose of
making necessary improvements and additions to the
State Prison—to be expended under the direction of
the directors of the same.

SEC. 72. That the sum of five hundred dollars be Library for State
Prison.
and the same is hereby appropriated to purchase a town-
ship library for the use of the State Prison—to be ex-
pended under the direction of the Superintendent of
Public Instruction.

SEC. 73. That J. B. Firestone and Caleb W. Edwards, J. B. Firestone
and C. W. Ed-
wards.
be each allowed thirty-five dollars for attorney's fees, in
contested election case.

K. G. Shyroek and Hugh Miller. SEC. 74. That Kline G. Shyroek and Hugh Miller, be each allowed the sum of one hundred dollars for counsel fees in the contested election case, at the session of 1857.

Ellis Barnes. SEC. 75. That Ellis Barnes be allowed the sum of nine dollars, for three days' services rendered the Committee on Printing in the Senate.

State Prison committee. SEC. 76. That William C. Tarkington, be allowed the sum of twenty-five dollars; D. C. Anthony, the sum of fifteen dollars; and David S. Gooding, the sum of twenty-five dollars, for *per diem* and mileage in visiting the State Prison during the vacation of the General Assembly.

M. Marsh. SEC. 77. That Montgomery Marsh be allowed the sum of six dollars for two days' services during the extra session of the Legislature, as assistant-doorkeeper.

F. Smith. SEC. 78. That F. Smith be allowed the sum of six dollars, for two days' services at the beginning of the regular session of the Legislature.

N. L. Wilson. SEC. 79. That N. L. Wilson be allowed the sum of six dollars, for two days' services at the beginning of the extra session of the Legislature.

A. A. Scott. SEC. 80. That A. A. Scott be allowed the sum of fifteen dollars for five cords of wood, furnished for the use of the Senate.

John Lenihan. SEC. 81. That John Lenihan be allowed the sum of twenty-five dollars, for lighting the Hall and attending on the committee on education, during the extra session of the Legislature.

Cameron & McNeely. SEC. 82. That Messrs. Cameron & McNeely be allowed the sum of seven dollars and fifty cents, for publishing a list of the Senate Acts of the special session of the Legislature.

J. & J. Bradshaw. SEC. 83. That Messrs. J. & J. Bradshaw be allowed the sum of seven dollars and twenty cents, for sundries furnished for the use of the Senate.

Merrill & Co. SEC. 84. That Messrs. Merrill & Co., be allowed the sum of sixteen dollars and twenty-five cents, for sundries furnished for the use of the Senate.

W. C. Smith. SEC. 85. That William C. Smith be allowed the sum of three dollars per day, for forty days' services rendered the principal doorkeeper of the Senate.

S. G. Thompson. SEC. 86. That S. G. Thompson be allowed the sum of three dollars per day, for sixty-one days' services rendered the principal doorkeeper of the Senate.

S. M. Gibbs. SEC. 87. That S. M. Gibbs be allowed the sum of

three dollars per day, for sixty-one days' services rendered the principal doorkeeper of the Senate.

SEC. 88. That H. P. Vawter be allowed the sum of H. P. Vawter.
three dollars per day, for sixty-one days' services rendered the principal doorkeeper of the Senate.

SEC. 89. That James Newbanks be allowed the sum Jas. Newbanks.
three dollars per day for sixty-one days' services as fireman in the Senate, during the present session.

SEC. 90. That Edward Valentine be allowed the sum Edw'd Valentine.
of three dollars per day, for sixty-one days' services rendered as fireman in the Senate, during the present session.

SEC. 91. That John Cooper be allowed the sum of John Cooper.
three dollars per day, for sixty-one days' services as assistant-doorkeeper of the Senate.

SEC. 92. That Montgomery Marsh be allowed the M. Marsh.
sum of three dollars per day, for sixty-one days' services as assistant-doorkeeper of the Senate.

SEC. 93. That Charles Murray be allowed the sum Charles Murray.
of three dollars per day, for sixty-one days' services rendered as assistant-doorkeeper of the Senate.

SEC. 94. That S. M. Gibbs be allowed the sum of S. M. Gibbs.
six dollars, for two days' services during the extra session of the Legislature.

SEC. 95. That John Cooper be allowed the sum of John Cooper.
six dollars, for two days' services at the beginning of the extra session.

SEC. 96. That Richard Henniger be allowed the sum R. Henniger.
of seventy-nine dollars and twenty cents, for furnishing one hundred copies of the *Indiana Free Press*, stamped and enveloped for the use of the Senate.

SEC. 97. That John Ott be allowed the sum of eight John Ott.
hundred dollars, for fifty writing desks and the same number chairs furnished for the use of the Senate, during the present session.

SEC. 98. That Joseph Curzon be allowed the sum of Joseph Curzon.
nine hundred and forty dollars and forty-six cents, for heating and ventilating Senate Chamber, &c., during the present session.

SEC. 99. That James H. Vawter, Principal, and Jas. H. Vawter
and Jas. N. Tyner.
James N. Tyner, Assitant-Secretary of the Senate, be allowed the sum of four dollars per day, each for sixty-one days as such secretaries, during the present session of the General Assembly.

SEC. 100. That James H. Vawter and James N. Tyner, James H. Vawter
and J N Tyner
be allowed the further sum of one hundred and fifty dollars, for preparing the index and superintending the printing of the Senate Journal of the present session.

Jonathan Payne. SEC. 101. That Jonathan Payne, assistant-reading secretary, be allowed the sum of four dollars per day, for sixty-one days' services as such secretary, during the present session.

B. F. Wallace. SEC. 102. That Benjamin F. Wallace, registering secretary, be allowed the sum of four dollars per day, for sixty-one days' services during the present session.

G. R. Bearss. SEC. 103. That George R. Bearss, engrossing clerk of the Senate, be allowed the sum of four dollars per day, for sixty-one days' services during the present session.

H. C. Gooding. SEC. 104. That H. C. Gooding, engrossing clerk, be allowed the sum of four dollars per day, for sixty-one days' services during the present session.

A. F. Shortridge. SEC. 105. That A. F. Shortridge be allowed the sum of thirty-two dollars and eighty-seven cents, for premium on gold with which to buy stamps for the use of the members of the Senate, and for ten days' services in procuring wood and superintending and repairing State House, before the commencement of the regular session of the Legislature.

— Scott. SEC. 106. That — Scott be allowed the sum of seven dollars for removing coal, &c., during present session of the Legislature.

— Gatewood. SEC. 107. That — Gatewood be allowed the sum of six dollars for preparing and fitting up Senate Chamber.

E. Valentine. SEC. 108. That E. Valentine be allowed the sum of three dollars, for services rendered in fixing up Senate Chamber.

J. Newbanks. SEC. 109. That J. Newbanks be allowed the sum of six dollars, for services rendered in fitting up Senate Chamber.

S. M. Gibbs. SEC. 110. That S. M. Gibbs be allowed the sum of four dollars for articles furnished for the use of the Senate.

J. S. Harvey. SEC. 111. That J. S. Harvey be allowed the sum of twelve dollars for services rendered as principal Secretary in organizing the Senate at the extra session of the Legislature.

Wm. J. Elliott. SEC. 112. That W. J. Elliott be allowed the sum of one hundred and eighty-three dollars *per diem* while contesting the seat of Hon. John S. Bobbs, at the session of eighteen hundred and fifty-seven.

Wm. Fleming. SEC. 113. That William Fleming be allowed three hundred and forty-five dollars for pursuing, arresting, and bring to justice, George B. Buchanan, George Mansfield, Jacob Rush, William G. Barnes, Holfagan Much,

John Knott, Lewis Upsey, Alvin Sheman and William Miller, fugitives from justice.

SEC. 114. That John S. Conger be allowed the sum of four dollars per day for thirteen days' services rendered for the Principal Secretary of the Senate during the present session. John S. Conger.

SEC. 115. That C. F. Nixon be allowed the sum of four dollars per day for forty-eight days' services rendered the Principal Secretary of the Senate during the present session. C. F. Nixon.

SEC. 116. That J. H. Haven be allowed the sum of four dollars per day for twenty-five days' services rendered the Principal Secretary of the Senate during the present session. J. H. Haven.

SEC. 117. That Thomas M. Brown be allowed the sum of four dollars per day for fifty days' service as assistant journal clerk of the Senate. Thos. M. Brown.

SEC. 118. That John H. Benton be allowed the sum of four dollars per day for thirteen days' services as assistant journal clerk of the Senate. John H. Benton.

SEC. 119. That Cyril P. Oakley be allowed the sum of four dollars per day for sixty-one days' services as assistant journal clerk of the Senate. Cyril P. Oakley.

SEC. 120. That John T. Rice be allowed the sum of four dollars per day for nineteen days' services as assistant journal clerk of the Senate. John T. Rice.

SEC. 121. That Ira G. Grover be allowed the sum of four dollars per day for forty-two days' services as assistant journal clerk of the Senate. Ira G. Grover.

SEC. 122. That A. F. Shortridge be allowed the sum of three dollars per day for sixty-one days' services rendered as principal doorkeeper of the Senate during the present session. H. F. Shortridge

SEC. 123. That John Osborne be allowed the sum of three dollars per day for sixty-one days' services as assistant doorkeeper of the Senate during the present session. John Osborn.

SEC. 124. That John W. Cooper be allowed the sum of two dollars and thirty cents, money expended in going to Ogden in pursuance of the order of the Senate. John W. Cooper.

SEC. 125. That J. Conley be allowed the sum of two dollars and fifteen cents for money paid for conveyance to Insane Hospital. J. Conley.

SEC. 126. That G. D. Wagner be allowed the sum of one dollar and fifty cents for conveyance to the Deaf G. D. Wagner.

and Dumb Asylum, as member of the committee on benevolent institutions.

E. D. Arnold. SEC. 127. That E. D. Arnold be allowed the sum of three dollars per day for ten days' services attending furnace the present session of the General Assembly.

Pat McLaughlin. SEC. 128. That Pat. McLaughlin be allowed the sum of seventy-two dollars for extra services for thirty-six days, during the extra session of the General Assembly, in the State Library and also five weeks' work on the catalogue of the library during the present session.

Sentinel Co. SEC. 129. That the Indiana State Sentinel Company be allowed the sum of eighteen dollars and seventy-five cents for binding one hundred and fifty copies of *Legislative Sentinel* at the extra session of the Legislature, for the use of the Senate.

Sentinel Co. SEC. 130. That the Indiana State Sentinel Company be allowed the sum of fifteen dollars for printing and binding two three-quire books for Secretary of Senate.

T. A. Goodwin. SEC. 131. That T. A. Goodwin be allowed the sum of two hundred and sixty-three dollars and fifty cents for three thousand copies of *American* for House, and two thousand postage stamps; also, sixteen hundred and fifty copies of the same for Senate, and eleven hundred postage stamps.

Prof. Mills. SEC. 132. That Professor Mills be allowed the sum of thirty dollars for his communication to the Senate on Common Schools.

Jacob Markle. SEC. 133. That Jacob Markle be allowed the sum of fifty-seven dollars for nineteen days' services in making out statistics for joint swamp land committee.

Wm. H. Martin. SEC. 134. That William H. Martin be allowed the sum of twenty-seven dollars for nine days' services in taking evidence before the swamp land committee.

John P. Dunn. SEC. 135. That John P. Dunn be allowed twenty-four dollars for eight days' services for the swamp land committee.

R. H. Milroy. SEC. 136. That R. H. Milroy be allowed the sum of fifty-six dollars for *per diem* and mileage as a witness before the swamp land committee.

Wm. Noffsinger. SEC. 137. That William Noffsinger be allowed the sum of two dollars for one day's services as witness before the swamp land committee.

Surgeon for Blind SEC. 138. That the sum of three hundred dollars be appropriated for the purpose of employing some skillful and competent surgeon to treat the pupils of the Blind Asylums, to be expended under the direction of the trustees and superintendents of said asylums.

SEC. 139. That E. G. B. Waldo be allowed three dollars per day for three days in making out swamp land items for Lake county. E. G. B. Waldo.

SEC. 140. That G. W. Spilter be allowed the sum of two dollars per day for one day's services as witness before the swamp land committee. G. W. Spilter.

SEC. 141. That John P. Dunn be allowed the sum of three dollars per day for three days' services in making abstracts of swamp land vouchers in Lake county. J. P. Dunn.

SEC. 142. That J. R. Griffith be allowed the sum of eight dollars for tables furnished for the use of the Senate. J. R. Griffith.

SEC. 143. That E. D. Arnold be allowed the sum of three dollars per day for two days' services in keeping up fires in furnace this session. E. D. Arnold.

SEC. 144. That William Snyder be allowed three dollars per day for thirty days' services as sergeant-at-arms on joint committee of swamp lands. Wm. Snyder.

SEC. 145. That E. J. Robinson be allowed the sum of three dollars per day for sixty-one days' services, employed as clerk to the committee on benevolent institutions during the present session of the General Assembly. E. J. Robinson.

SEC. 146. That Sheets & Braden be allowed the sum of eight dollars and seventy-five cents for two register bill books. Sheets & Braden.

SEC. 147. That Thomas Brady be allowed the sum of three dollars per day for sixty-one days' services rendered as clerk of the committee on judiciary. Thos. Brady.

SEC. 148. That John T. Rice be allowed the sum of three dollars per day for forty-two days' service rendered as clerk of the committee on finance. John T. Rice.

SEC. 149. That W. H. Martin be allowed the sum of three dollars per day for sixty-one days' services rendered as clerk of the committee on swamp lands. W. H. Martin.

SEC. 150. That Ira G. Grover be allowed the sum of three dollars per day for nineteen days' service as clerk of the committee on finance. Ira G. Green.

SEC. 151. That Wesley Wagner be allowed the sum of three dollars per day for twenty-one days' service as assistant to the principal doorkeeper. Wesley Wagner.

SEC. 152. That N. L. Wilson be allowed the sum of three dollars per day for forty days' service as clerk of the committee on education. N. L. Wilson.

SEC. 153. That W. C. Smith be allowed the sum of three dollars per day for twenty-one days' services rendered as clerk of the committee on education. Wm. C. Smith.

- E. G. Holliday.** SEC. 154. That E. G. Holliday be allowed the sum of three dollars per day for twenty days' service rendered as clerk of the committee on printing.
- E. G. Holliday.** SEC. 155. That E. G. Holliday be allowed the sum of three dollars per day for twenty days' services rendered the committee on township business.
- E. G. Holliday.** SEC. 156. That E. G. Holliday be allowed the sum of three dollars per day for one day's service rendered as clerk of the committee on swamp lands.
- Jas. N. Tyner.** SEC. 157. That James N. Tyner be allowed the sum of twelve dollars and twenty-eight cents, for services rendered in the organization of the Senate at the extra session.
- J. G. U. Traylor.** SEC. 158. That J. G. U. Traylor be allowed the sum of thirty-five dollars, for services rendered in removing William Swicher from the State of Kentucky to Scott county, Indiana.
- Jas. Newbanks.** SEC. 159. That James Newbanks be allowed the sum of six dollars, for two days' service during the extra session of the Legislature.
- Edw'd Valentine.** SEC. 160. That Edward Valentine be allowed the sum of six dollars, for services rendered during extra session of the Legislature.
- Speigel & Thomas.** SEC. 161. That Speigel & Thomas be allowed the sum of twelve dollars, for five tables furnished for the use of the Senate.
- Tousey & Byram.** SEC. 162. That Tousey & Byram be allowed the sum of eight dollars and fifty-two cents, for muslin &c., furnished for the use of the Senate.
- Wm. Tipper.** SEC. 163. That William Tipper be allowed the sum of thirty dollars, for cleaning spittoons sixty days.
- Gatewood Ellison.** SEC. 194. That Gatewood Ellison be allowed the sum of fifteen dollars, for cleaning spittoons thirty days at the extra session of the Legislature.
- Wm. Leach.** SEC. 165. That William Leach be allowed the sum of one hundred and thirty-five dollars, for forty-five cords of wood furnished for the use of the Senate.
- Geo. H. Cleary.** SEC. 166. That George H. Cleary be allowed the sum of sixteen dollars, for repairing and fitting up gas pipes in Senate Chamber.
- Sentinel Co.** SEC. 167. That the Indiana State Sentinel Company be allowed the sum of three hundred and ninety-two dollars, for one hundred and sixty-five copies of the *Daily Sentinel*, one hundred and ten copies of which were wrapped and stamped.
- Journal Co.** SEC. 168. That the Indianapolis Journal Company be allowed the sum of three hundred and ninety-two

dollars, for one hundred and sixty-five copies of the *Daily Journal*, one hundred and ten copies of which were wrapped and stamped.

SEC. 169. That Julius Boetticher be allowed the sum of seventy-nine dollars and twenty cents, for one hundred and sixty-five copies of the *Weekly Volksblatt*, enveloped and stamped. Julius Boetticher.

SEC. 170. That R. L. & A. W. McOut be allowed the sum of one hundred and twenty-eight dollars and ninety-five cents, for stoves, pipes, zinc, coal-hod, bucket, dipper, &c., furnished the Senate. R. L. & A. W. McOut.

SEC. 171. That Frederick Burgtoff be allowed the sum of twenty-eight dollars and forty cents, for repairs &c., in and about the Senate Chamber. F. Burgtoff.

SEC. 172. That John Osborn be allowed the sum of one dollar and five cents, for drayage at the extra session of the Legislature. John Osborn.

SEC. 173. That F. Irwin be allowed the sum of fourteen dollars and ninety cents, for attending as a witness before the Bank Fraud investigating committee. F. Irwin.

SEC. 174. That John Ott be allowed the sum of one dollar, for a lock furnished the Senate. John Ott.

SEC. 175. That George W. Randall be allowed the sum of forty-two dollars, for fourteen days' service as sergeant-at-arms, before the Bank Fraud investigating committee. Geo. W. Randall.

SEC. 176. That J. E. Wilson be allowed the sum of twelve dollars and fifty cents, for money paid John L. Spann, for services as a witness before the Bank Fraud investigating committee. J. E. Wilson.

SEC. 177. That David C. Shanks be allowed the sum of forty-eight dollars, for services rendered as assistant-sergeant-at-arms before the Bank Fraud investigating committee. David C. Shanks.

SEC. 178. That John Mayer be allowed the sum of twenty-seven dollars, for services rendered in attending committee rooms, and other work at the extra session. John Mayer.

SEC. 179. That Joel Gatewood be allowed the sum of three dollars per day for sixty-one days' services for attending furnace during the present session. Joel Gatewood.

SEC. 180. That Samuel Dean be allowed the sum of three dollars per day for fifty-three days' services sawing wood and attending the furnace at night. Samuel Dean.

SEC. 181. That John Mayer be allowed the sum of three dollars per day for sixty-one days' services for attending committee rooms during the present session. John Mayer.

SEC. 182. That Delzell & Tyler be allowed the sum of Delzell & Tyler.

GENERAL LAWS.

three dollars and fifty cents for two blank books furnished for the use of the Senate.

Delzell & Tyler. SEC. 183. That Delzell & Tyler be allowed the sum of five dollars for enveloping and twine for two hundred binders for documents sent by mail, &c.

D. M. Tilton. SEC. 184. That D. M. Tilton be allowed the sum of six dollars for services as doorkeeper at the extra session of the Legislature.

Fr. Burgtorf SEC. 185. That Frederick Burgtorf be allowed the sum of thirty-five dollars for repairs and materials furnished the same in and about the Senate Chamber.

A. F. Shortridge. SEC. 186. That A. F. Shortridge be allowed the sum of seventeen dollars and seventy cents for services rendered swamp land committee in serving summons.

Jas. H. Vawter. SEC. 187. That James H. Vawter be allowed the sum of three dollars and fifty cents for postage paid in mailing temperance bills.

W. H. Drapier. SEC. 188. That W. H. Drapier be allowed the sum of ninety-one dollars and sixty-six cents for services rendered in taking the testimony before the investigating committee in regard to the difficulty between Senators Heffren and Gooding.

A. E. Drapier. SEC. 189. That A. E. Drapier & Son be allowed the sum of six hundred dollars for six hundred copies of Legislative Reports.

Stewart & Bowen SEC. 190. That Stewart & Bowen be allowed the sum of twelve dollars and ninety-one cents for stationery, &c., furnished the bank fraud investigating committee.

E. E. Campbell. SEC. 191. That E. E. Campbell be allowed the sum of forty-two dollars for fourteen days' service as assistant sergeant-at-arms before the bank fraud investigating committee.

E. G. Holliday. SEC. 192. That E. G. Holliday be allowed the sum of three dollars per day for twenty days' services rendered the committee on banks.

Emergency SEC. 193. It is hereby declared that an emergency exists for the immediate taking effect of this act, therefore it shall take effect and be in force from and after its passage.

Clerk of House to furnish copy to Auditor of State. SEC. 194. That the Clerk of the House of Representatives is hereby directed to make out and certify a copy of this act immediately and deliver the same to the Auditor of State.

CHAPTER IV.

AN ACT to provide for the management and disposal of the estates of persons who have absented themselves from their usual place of residence, and gone to parts unknown.

[APPROVED MARCH 5, 1859.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* When any resident of this State shall have absented himself from his usual place of residence and gone to parts unknown for the space of ten years, leaving property real or personal, without having made any sufficient provision for the management of the same, and when in such case, at any time it shall be made to appear to the satisfaction of the court having probate jurisdiction in the county where such person last resided, or where such property is situated, by complaint and proof after thirty days' notice to such person by publication in a newspaper of general circulation, published at the capital of the State, and also in a paper published in such county if there is any, that such property is suffering waste for want of proper care, or that the family of such person are in need of the use and proceeds of such property, for their support or education, it shall be presumed and taken by such court that such person is dead, and the court shall have jurisdiction over the estate of such person, in the same manner and to the same extent as if dead, and shall appoint an administrator of his estate, who shall have all the powers and rights over such estate and be subject to all the liabilities and duties in relation thereto, that appertain to administrators of decedents' estates under chapter 10 of the Revised Statutes of 1852, being "An act providing for the settlement of decedents' estates, prescribing the rights, liabilities and duties of officers connected with the management thereof, and the heirs thereto, and certain forms to be used in such settlement," and of any acts amendatory thereto.

Absence of ten years presumption of death.

Absentees' estates to be administered upon.

SEC. 2. Such administrator shall not be discharged on the return and reappearance of such person until discharged by the court, but shall retain his powers and rights and be subject to all his official liabilities and duties until so discharged.

Administrator not discharged by return of absentee.

SEC. 3. The wife of such departed person shall have all the rights and independent powers of a *feme sole* to make contracts and execute deeds of acquittances for

Wife of absentee to have rights of *feme sole*.

herself, from the time of the appointment of such administrator until the return of her husband and the resumption of his rights as such husband.

Court may appoint guardian of minor children of absentees.

SEC. 4. Such court shall have power to appoint guardians of the persons and estates of the minor children of such departed person, who shall have all the powers and rights, and be subject to all the duties and liabilities in relation to such minor children and their estates, which appertain to guardians of minor heirs and their estates, under chapter 12 of Revised Statutes of 1852, being "An act touching the relation of guardian and ward," and of any acts amendatory thereto.

Property of absentee subject to same liabilities as property of a deceased person.

SEC. 5. The property of such departed person, real and personal, and all his rights, obligations, and choses in action, shall be subject to the same liabilities, incidents, rights, management and disposal, under this act in all respects, as if such person were known to be deceased, and all adjudication and acts done by such administrator or guardian, shall be valid, effectual and binding on such person, should he return, as if they were his own act—the acts and doings of such administrator and guardian being in good faith, and without fraud.

Emergency.

SEC. 6. Inasmuch as there is now no law in force granting the relief desired, it is deemed that an emergency exists for the immediate taking effect of this act, and it shall therefore be in force from and after its passage.

CHAPTER V.

AN ACT to amend section eight of an act entitled "an act to authorize and limit allowances by Courts and Boards, and drafts upon County Treasurers," approved May 27, 1852.

[APPROVED MARCH 5, 1859.]

Section 8, of An Act, &c., amended.

SECTION 1. *Be it enacted by the General Assembly of State of Indiana,* That section eight of an act entitled "an act to authorize and limit allowances by courts and boards, and drafts upon county treasurers," approved May 27, 1852, which section reads as follows, to wit:

"It is hereby specially made the duty of such Board to contract with one or more skillful physicians, having knowledge of surgery, to attend upon all prisoners confined in jail, or paupers in the county asylum, and may also contract with physicians to attend upon the poor generally in the county; and no claim of a physician or surgeon for such services shall be allowed by such board, except in pursuance of the terms of such contract," be and the same is hereby amended to read as follows, to wit:

It is hereby specially made the duty of such board to contract with one or more skillful physicians, having knowledge of surgery, to attend upon all prisoners confined in jail or paupers in the county asylum, and may also contract with physicians to attend upon the poor generally in the county, and no claim of a physician or surgeon for such services, shall be allowed by such board except in pursuance of the terms of such contract, provided that the foregoing section shall not be so construed as to prevent the overseers of the poor or any one of them, in townships not otherwise provided for, from employing such medical or surgical services as paupers within his, or their jurisdiction may require.

So as to allow overseers of the poor to employ physicians or surgeons.

SEC. 2. It is declared that in the opinion of this General Assembly an emergency exists for the immediate taking effect of this act; it is therefore enacted that the same shall be in full force from and after its passage.

Emergency.

CHAPTER VI.

AN ACT authorizing appeals from Circuit Courts to the Supreme Court, in contested election cases.

[APPROVED MARCH 2, 1859.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That hereafter in all cases of contested elections where an appeal has been taken from the board of County Commissioners to the Circuit Court, either party feeling aggrieved by the judgment of said Court may appeal therefrom to the Supreme Court, as in other civil cases.

Cases of contested election may be appealed to Supreme Court.

SEC. 2. *And Whereas*, there is no law authorizing appeals to the Supreme Court in such cases; it is therefore, hereby declared that an emergency exists for the immediate taking effect of this act, and that the same take effect and be in force from and after its passage.

Emergency

CHAPTER VII.

AN ACT prescribing the duties of Township Assessors in making lists of the Deaf and Dumb and Blind persons in their respective townships, and prescribing the duties of County Auditors, and of the Auditor of State relative thereto.

[APPROVED MARCH 5, 1859.]

Assessors to make list of Deaf and Dumb, and Blind.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That it shall be the duty of the Assessors of each township, at the time of assessing personal property, to ascertain and set down in tables prepared for that purpose, a list of all persons in their respective townships, who are Deaf and Dumb, or Blind, setting forth the names, age and sex of each, also the name of the father, mother, or guardian, and their post-office address, which they shall return to the County Auditor at the same time they return the lists of personal property.

For County Auditor.

Auditor of State to furnish same to Superintendents of Blind, and Deaf and Dumb Asylum.

SEC. 2. The said County Auditors shall report the same to the Auditor of State, at the time of making their returns of the lists of personal property, who shall lay before the Superintendents of the Institute for the Education of the Blind and of the Deaf and Dumb, copies of the lists so made.

CHAPTER VIII.

AN ACT supplemental to an act entitled "An Act to authorize and regulate the business of general banking," passed March 3, 1855, providing for additional securities in the delivery, surrender, exchange or sale of stocks, or bonds deposited under said act.

[APPROVED MARCH 5, 1859.]

Forms of endorsement on bonds redeemed.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the Treasurer of State be directed to procure for the use of his office two stamps of some substantial material, engraved or prepared in such a manner, as when used the first shall make the two following impressions:

Registered No. —

Auditor. —

Office of Treasurer of State, }
 Indianapolis, ——— 18— }

Received from ——— the within
 Bond, which has been pledged for the redemp-
 tion of the notes of the ———

——— Treasurer of State.

——— Agent.

STATE OF INDIANA,

Office of Treasurer of State, }
 Indianapolis, ——— 18— }

Registered

Auditor. —

The within Bond is delivered to ———
 ——— the notes for which it
 was pledged having been redeemed, or other
 securities having been substituted.

——— Treasurer.

——— Agent.

And the second stamp shall make the following im-
 pression:

STATE OF INDIANA,

No. —

Office of Treasurer of State, }
 Indianapolis, ——— 18— }

Registered

Auditor. —

The within Bond is put in market for sale
 and for redemption of notes for which it was
 pledged.

——— Treasurer of State.

{ L. S. }

——— Secretary of State.

When used.

SEC. 2. Whenever any person or association of persons formed for the purpose of banking under the act entitled "An act to amend an act to authorize and regulate the business of general banking," passed March 3, 1855, shall legally transfer to the Auditor of State any stocks or bonds for the purpose of receiving circulating notes, the Treasurer of State shall cause the same to be distinctly impressed upon its back with the first stamp, and shall fill the blank with the date of such transfer, the name of the bank, and the same shall then be signed by the Treasurer of State, the Agent of said bank, and registered and countersigned by the Auditor of State.

SEC. 3. Whenever it shall be necessary under the provisions of said act for the Treasurer to surrender or exchange any of such bonds or stocks, then he shall fill the second blank with the date of the surrender or exchange, the name of the person to whom delivered, and the same shall be signed by the Agent of the bank, and registered and countersigned by the Auditor of State.

Bonds put in market.

SEC. 4. Whenever it shall become necessary under the provisions of the said act to put any bonds or stocks so deposited into market for sale, then the Treasurer shall cause the same to be distinctly impressed on its back with the second of said stamps, shall fill the blanks with the date and such impression; shall be signed by the Treasurer and Secretary of State, and the Governor shall cause the seal of State to be affixed thereto, and the impression shall be registered and countersigned by the Auditor of State.

CHAPTER IX.

AN ACT containing some general provisions respecting the Sinking Fund, its management and control, and to legalize and give validity to certain bonds therein named, and to authorize the debtors of the Branches of the State Bank of Indiana to secure to the Sinking Fund a portion of their indebtedness.

[APPROVED MARCH 5, 1859.]

WHEREAS, Several of the Branches of the State Bank of Indiana did, just before the expiration of the charter of said Bank, make an assignment of their assets for the benefit of the State and other stockholders of

the assigning Branches, and did take bonds from the respective assignees, with security for the faithful performance of their respective trusts; AND WHEREAS, Each of the Branches of said Bank did, just before the expiration of the charter of said Bank, separately contract with parties for the taking in and cancellation of the outstanding notes of said Bank, and the effaced notes thereof, and did take bond with security from each contracting party, for the fulfilment of said contract of redemption and cancellation; therefore,

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That any bond, obligation, or instrument, sealed or unsealed, that has been or may be executed by any assignee of any Branch of said Bank, or said assignee and securities, for the purposes aforesaid, is hereby declared to be a legal and binding obligation, and may be put in suit for any Branch by the State, at the instance of the Sinking Fund Commissioners, or by any private stockholder, or by any person that may be injured by any Branch thereof; nor shall one recovery on said bond be any bar to a subsequent recovery by any other injured party, or for any subsequent breach.

Certain Instruments made by Assignees of the Branches of State Bank made legal, and may be put in suit.

SEC. 2. That any bond, obligation, or instrument, sealed or unsealed, that has been or may be executed by any party or parties, or said party and his, her, or their securities, to secure the redemption of the circulating notes of any Branch of said Bank, and the effaced notes of said Bank, or any part thereof, is hereby declared to be a legal and binding obligation, and for any Branch thereof may be put in suit by the State of Indiana, at the instance of the Sinking Fund Commissioners, or by any stockholder of said Bank, or by any billholder, or by any party that may be injured; nor shall a recovery by one party injured be any bar to a recovery by another injured party, nor any bar to a recovery for any subsequent breach.

Same subject.

SEC. 3. Any person or persons indebted to any Branch of said Bank, whose debt has or shall pass into the hands of the assignee, may secure the payment to the Sinking Fund Commissioner of one-half of said debt, and accruing interest thereon and costs, by executing, by himself or any one in his behalf, a mortgage to the State, securing the payment of the same in five equal annual payments, with seven per cent. interest in advance, payable annually. Said mortgage, made upon unincumbered real estate situated in this State, which,

Persons indebted to any of the said Branches may mortgage, &c.

exclusive of all perishable improvements, shall be double in value of the amount of the debt intended to be secured; and the collection of said debt may be enforced as other Sinking Fund loans are enforced.

CHAPTER X.

AN ACT to provide for the application of any surplus that may remain in the hands of the Auditor of State after the redemption of the circulation of any Bank or Banking Association, where such Bank or Banking Association has received on deposit money belonging to the State and has failed to pay the same.

[APPROVED MARCH —, 1859.]

Surplus proceeds
of securities of
Banks to be ap-
plied to debts due
State.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That where any bank or banking institution organized under any law of this State, has transferred or shall hereafter transfer any bonds to the proper officers of State, for the redemption of its circulation, and there shall have been deposited with said bank or banking association by any Treasurer of State or County Treasurer, money belonging to the State, and there shall be any surplus after the redemption of such circulation, such surplus shall be applied by the Auditor of State, *first* to the liquidation of such deposits; and secondly as now directed by law.

Emergency.

SEC. 2. Whereas an emergency exists for the immediate taking effect of this act, the same shall therefore be in force from and after its passage.

CHAPTER XI.

AN ACT to provide for the election of Trustees and Commissioners for the Benevolent Institutions of the State, and prescribing some of the duties of such officers.

[APPROVED MARCH 5, 1859.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana, That,* at its present session, there shall be elected two trustees each, for the Asylum for the Blind, and the Institution for the Education of the Deaf and Dumb, and two commissioners for the Hospital for the Insane; one of whom for each institution, shall serve for two years, and one for four years, to be determined by lot; and that at each regular biennial session of the Legislature hereafter, there shall be elected one trustee each, for the Institution for the Education of the Deaf and Dumb and for the Asylum for the Blind, and one commissioner for the Hospital for the Insane.

Trustees to be elected for Blind, and Deaf and Dumb Asylums, and Commissioners for Insane.

SEC. 2. There shall also be a President elected at the present session of the General Assembly, who shall hold his office for four years, and who shall be the President of the several Boards of Trustees and Commissioners as herein provided; that is, the trustees for the Institution for the Education of the Deaf and Dumb and the President, shall compose the Board of Trustees for the government of the Institution for the Deaf and Dumb, and the trustees of the Asylum for the Blind, with said President, shall constitute the Board for the government of said Asylum; and the two commissioners with said President, shall have the government of the Hospital for the Insane.

President of the several Boards, holds his office four years.

SEC. 3. The President, trustees and commissioners, for whose election provision is herein made, shall hold their several offices until their successors shall be elected and qualified; but in case of the death, resignation, or other inability of the President, or any one of said trustees, or commissioners, to serve, then, and in that case, the President, or in case of his death, resignation, or other inability, the Governor shall convene the said several Boards herein provided for the Benevolent Institutions; and the said several Boards, acting as one Board, shall proceed to elect a President, trustee, or commissioner, to serve during the unexpired term of the officer so dying, resigning, or otherwise incapable of discharging the duties of said office.

Vacancies in the Boards.

How filled.

Manner of election by General Assembly.

SEC. 4. It shall be the duty of the two Houses of the General Assembly, at its present session, and at each succeeding regular session thereof as herein provided, to proceed, by concurrent vote, to elect the officers herein named, and in case the two Houses after ten times voting for the purpose, fail to concur or agree in giving to the same persons a majority of the votes cast in each House, then the person or persons receiving the majority of the votes cast by both Houses, shall be declared elected.

To be deemed in office, second day of April after election.

SEC. 5. The persons to be elected by the provisions of this act shall enter upon and be deemed to be in office, from the second day of April next ensuing after such election.

Duties of Trustees and Commissioners.

SEC. 6. It shall be the duty of the Board of Trustees and Commissioners to be appointed under and by virtue of this act, to have and take the entire charge of the Institutions and Hospital, for which they are elected according to the provisions of law that now is, or may be hereafter in force, to appoint the Superintendents, subordinate officers, physicians, teachers, matrons, and their several assistants, and, for just cause, to remove any or all such subordinates; to enact by-laws for the government of the several Institutions, and to do any and all other things that may be necessary to carry out the objects for which said Institutions are established.

Superintendents to nominate subordinate officers, &c.

SEC. 7. The Superintendents of the Institutions and Hospital, shall have the right to nominate all subordinate officers and employees, and shall have power for just cause to suspend any, or all subordinate officers, or employees, until the meeting of the Board.

Expenditures to be made under control of Trustees and Commissioners, and orders to be signed by President of Board.

SEC. 8. All expenditures by the several Institutions shall be under the direction and control of the Board of Trustees or Commissioners as herein provided, and the moneys to be drawn from the treasury for the support and maintenance of said Institutions, shall only be so drawn by direction of the said Board of Trustees, and the order of such Board shall only be paid when countersigned by the President of such Board; and all accounts shall receive the signature of the Superintendent of the Institution or Hospital for whose use they have been made, before the Board for such Institution shall pass upon or order its payment.

Repealing section.

SEC. 9. All acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

SEC. 10. Whereas it is essential that an election for the officers herein named shall take place at the present

session of the Legislature, an emergency is therefore declared to exist, requiring this act to be in force from and after its passage, and the same shall so be in force from and after its passage. Emergency.

CHAPTER XII.

AN ACT to amend the 78th section of an act entitled "An act dividing the State into Counties, defining their boundaries, and defining the jurisdiction of such as border on the Ohio and Wabash rivers," approved January 7, 1852.

[APPROVED MARCH 5, 1859.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That section seventy-eight of an act entitled "an act dividing the State into counties, defining their boundaries, and defining the jurisdiction of such as border on the Ohio and Wabash river," approved January 7, 1852, which reads as follows: Sec. 78 of an act, &c., amended.

"The district of country within the following boundaries shall form and constitute the county of Sullivan, to-wit: Beginning on the Wabash river where the line dividing townships nine and ten north intersects the same, thence east to the line dividing ranges seven and eight west, thence south to the south-west corner of township six north, of range eight west, thence west to the line dividing ranges nine and ten west, thence due west to the Wabash river, thence up the river to the place of beginning," be, and the same is hereby amended to read as follows:

The district of country within the following boundaries shall form and constitute the county of Sullivan, to-wit: Beginning on the Wabash river where the line dividing township nine and ten north intersects the same, thence east to the line dividing ranges seven and eight west, thence south to the south-east corner of township six north, range eight west, thence west to the line dividing ranges nine and ten west, thence due west to the Wabash river, thence up the river to the place of beginning. Changing the boundaries of Sullivan county.

CHAPTER XIII.

AN ACT to extend to borrowers of Sinking Fund, Surplus Revenue Fund, Saline Fund, Congressional School Fund, and other Funds, time of payment of loans, and prescribing the duties of the officers in regard thereto.

[APPROVED MARCH 3, 1859.]

Loans from different funds may be continued in certain cases for 4 years.

Payment may be enforced.

No extension to be made, if by it the securities are released;

or when any party interested objects to said extension.

Extension in such cases rendered invalid.

Provisions of this act not to apply to sums greater than \$500.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the officers having charge of the sinking fund, surplus revenue fund, congressional school fund, saline fund, or other trust or public funds loaned in this State, shall not be required to enforce the collection of any of said loans at the maturity thereof, provided the interest be punctually paid; and it is hereby enacted that said officers may continue to receive the interest in advance from year to year for the period of four years from and after the twentieth day of January, 1859; but payment of any loan may be enforced after it becomes due, or for the non-payment of interest, when the officer or officers having charge of the same, shall, in the exercise of a sound discretion, believe that the safety of the debt or good of the fund require it.

SEC. 2. That no such officer or officers shall receive the said interest, and thus extend the day of payment beyond the maturity of the note, mortgage or other obligation, in any case when such extension would release the security, real or personal, held for the debt, nor in any case where there are different parties bound as principals on the note, mortgage or other obligation, or interested in the mortgaged premises, any of whom shall file his, her or their written objection with the officer having charge of the fund before the payment of any given year's interest after the maturity of the debt.

SEC. 3. Any extension of a loan beyond the maturity thereof granted by any officer or officers, the effect of which, if valid, would be a release of a security, real or personal, held for the debt, is hereby declared invalid, and not binding, and that no extension of time or release of security shall result therefrom, and no officer or officers shall have power to make any such extension.

SEC. 4. The provisions of this act shall not apply to borrowers of any sum or sums over five hundred dollars.

CHAPTER XIV.

AN ACT to repeal all general laws now in force providing for the incorporation of Bridge Companies, and to provide for the incorporation of Bridge Companies, to authorize them to construct in connection with bridges, causeways across low bottoms, collect toll, prescribe their powers and rights, and the manner in which they shall exercise the same, and to regulate such other matters properly connected therewith.

[APPROVED MARCH, 3 1859.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That any number of persons may form themselves into a corporation for the purpose of constructing and owning a bridge across any river, creek, or other water course, by complying with the following requirements: They shall unite in articles of association, setting forth the corporate name they assume, the water course, the place where the said bridge is to be built or constructed, the amount of capital stock, the number of shares into which it is to be divided, the names and places of residence of the subscribers or stockholders, and the amount of stock taken by each, shall be subscribed to said articles of association. Whenever the stock subscribed shall amount to a sum sufficient to complete the bridge according to the estimate of a practical engineer, the company may organize, and shall first obtain the consent of the board of commissioners of the proper county to authorize such company to erect such bridge at the place proposed in the articles of association; and if the stream over which any bridge is proposed to be constructed, shall be the dividing line of counties, then the consent of the board of commissioners of each county interested, shall be obtained, and immediately thereupon, a copy of the articles of association shall be filed in the office of the recorder of the county or counties in which the bridge may be erected or situated. Any such corporation, if they deem it best, may construct and own, as an extension of such bridge, and in connection with it, a firm and substantial causeway, to be made of trestle work or of solid embankment, or part of trestle work and part of solid embankment, across the low bottoms of any river, creek, or other water course; such purpose shall be set forth in the said articles of association, and all

Bridge companies.

Articles of association.

When sufficient amount is subscribed, Co. may organize with consent of county board.

Articles to be filed in recorder's office.

the requirements hereinbefore specified relative to such corporation constructing and owning a bridge, shall be complied with.

May make trestle work or embankments.

SEC. 2. It shall be lawful for any corporation heretofore organized, for the purpose of constructing and owning a bridge across any river, creek, or other water course, which such corporation may have constructed and own, and in connection with such bridge may have constructed and own, as an extension of it, a firm and substantial causeway, made of trestle work or solid embankment, or part of trestle work and part of solid embankment, across the low bottoms of any river, creek or other water course; or it shall also be lawful for any corporation which may hereafter be organized for the purpose of constructing and maintaining any such bridge, and if they deem it best, to construct and own any such causeway in connection with such bridge, and as an extension of it, to increase the capital stock of any such corporation from time to time, for the purpose of completing any such bridge or causeway, to keep the same in repair, to re-build or re-construct the same, whether if either the bridge or causeway should have been destroyed or injured, wholly or in part, to protect the banks of any stream over which any such bridge may be erected, and to do and perform all other acts and purposes properly connected with the object for which any such corporation may have been or may be organized. But before any increase in the capital stock of any such company shall be made, said company shall file in the office of the recorder of the proper county or counties in which any such bridge or causeway may be situated, a statement showing the corporate name of any such company, the water course and place where the bridge is built or to be built, and also the same shall be done as to a causeway, if one is constructed, or to be constructed. The amount of the proposed increase of the capital stock of any such company, and the number of shares in which it is to be divided shall be specified in said statement; but no such increase in the capital stock shall be made unless so many stockholders thereof consent to it as shall be the owners in the aggregate of at least three-fifths of the original stock.

May increase capital stock to repair, &c.

Number of Directors.

SEC. 3. Not less than three nor more than seven directors shall be elected by the stockholders of any such corporation, who shall hold their office for one year and until their successors are elected in like manner. It shall be lawful for the stockholders to determine upon the number of directors they desire as herein restricted,

on the day of the election and immediately previous to proceeding to such election. At all elections for directors by the stockholders each stockholder shall be entitled to vote in person or by some person who shall be appointed by any stockholder in writing, as the proxy of such stockholder. Each stockholder shall be entitled to one vote for each share he or she may own in any such corporation. Notice of any election for directors shall be given in such manner as either the stockholders or directors may order.

Manner of electing.

SEC. 4. Any board of directors elected under the provisions of this act may organize by choosing a President and Secretary from their own body, and from thence forth shall be considered a body corporate and politic by the name and style of _____

Directors to choose President and Secretary, after which, to be a body corporate.

_____ Bridge Company, and shall then be capable of suing and being sued, pleading and being impleaded, defending and being defended, answering and being answered unto, in any court of competent jurisdiction. Any such company organized under the provisions of any general act on this subject, are hereby declared to be organized under this act.

SEC. 5. Any corporation under the provisions of this act may have and use a common seal with power to alter, or change the same at pleasure, by order of either the stockholders or directors.

May use common seal.

SEC. 6. The directors first elected under this act shall immediately provide a code of by-laws for the government of the corporation and management of its prudential concerns, present the same to the company for their adoption, which by-laws, if not repugnant to the laws of the State, when approved by a vote of a majority of the stock represented, shall become a law and be binding on all parties concerned, until altered or amended by a similar vote, at any meeting of the stockholders; *provided however*, it is not required that an company which has adopted by-laws heretofore, conformable to this section under the provisions of a general act on this subject shall provide a new code, as the by-laws they have adopted shall govern until altered or amended as herein provided. The by-laws of each company shall be posted up by copy, in some conspicuous place or places, in or about the proper toll house.

Directors first chosen to make code of laws and by-laws.

By-laws may be amended.

By-laws to be posted up conspicuously.

SEC. 7. The directors shall fill all vacancies that may occur in their own body; they may sit on their own adjournment, or on the call of the President, or that of any two directors; when either the President or Secre-

Powers and duties of directors to fill vacancies and call meetings

Elect treasurer
and other officers
or employees.

tary shall be absent, the directors may fill the same by a *pro tempore* appointment. The directors shall at all times keep or cause to be kept at some proper place, proper books of account and of their proceedings, in which shall be entered all the business transactions of the company, and which books shall at all times be subject to the inspection of the stockholders of the corporation. The directors shall elect a treasurer, unless the duties of treasurer shall be assigned to the President or Secretary, and they shall elect or appoint all other officers, agents, or employees, or authorize the same to be done.

Certificates of
stock trans-
ferable.

SEC. 8. Certificates of stock shall be given to stockholders, which shall be evidence of stock held and owned, the same to be signed by the President and Secretary with the seal of the company affixed; the stock shall be transferrable on the books of the corporation only, but such stock shall at all times be held by the corporation for any delinquency in the payment of any assessment.

Corporation may
erect toll gate &
toll house and
receive toll.

SEC. 9. Whenever any bridge shall be constructed or erected under the provisions of this act, or that shall have been completed or used under the provisions of any general act, and whenever any corporation shall construct, or may have heretofore so constructed any such bridge, and which may construct as an extension of such bridge, and in connection with it a firm and substantial causeway, as specified before in this act, or which shall have so constructed and used any such causeway, such corporation may erect and maintain a toll gate and toll house, at some convenient point where such bridge or causeway may be situated; the President or directors of any such company may appoint one or more toll collectors, who shall demand and receive a toll not exceeding such rates as shall be fixed by any such company, and be approved by the Board of Commissioners of the proper county or counties, where any such bridge or causeway may be situated. The rates of toll may be divided separately if any company desire it, so that the same may be demanded and received for the use of the bridge or causeway. The rates of toll shall be painted on a board, which shall be set up before the toll house or some other conspicuous place on the bridge, or causeway. Any such corporation may demand and receive a less rate of toll than shall be then authorized, but in no instance shall a greater rate be demanded or received.

May receive toll
for bridge and
toll for causeway.

May receive less
but not more
than regular
rates.

SEC. 10. If any toll-gather shall unnecessarily hinder or delay any passenger at the gate, or shall demand and receive more than legal toll, then the corporation shall forfeit and pay for every such offence, the sum of five dollars for the use and benefit of every such person who shall be thus detained or defrauded, to be recovered with costs, before any court having competent jurisdiction.

Toll gatherer liable for unnecessary detention of any person, or for charging more than proper toll.

SEC. 11. If any person shall forcibly or without the consent of the toll-collector, pass any bridge or causeway without paying toll, every person so offending shall forfeit and pay for every such offence, the sum of three dollars in addition to the amount of his or her legal toll, to the corporation, with costs of suit, to be recovered before any justice of the peace in the proper county.

Persons crossing without paying liable to forfeiture of \$3.

SEC. 12. If any person shall wilfully impair or injure any bridge, every such person so offending shall forfeit and pay to the corporation double the costs of repair with damages and costs of suit, to be recovered before any court of competent jurisdiction.

Persons injuring bridge.

SEC. 13. In all actions brought to recover any penalty or forfeiture in and under this act, or the by-laws made in pursuance of this act, it shall be lawful to declare in debt generally for such penalty or forfeiture, stating the section of this act, or the by-laws under which the penalty or forfeiture is claimed, and to give the special matter in evidence, and the defendant in like manner may plead the general issue to such action, [and] give all matters of defence in evidence under that issue.

Form of action to recover forfeiture.

SEC. 14. Any corporation under the provisions of this act shall be capable of purchasing, holding, using and conveying, any property or estate, real or personal, that may by them be deemed necessary for the erection of any bridge, or causeway, or toll-house, and all other appropriate purposes; and to take real property therefor, such corporations may have the benefit of the writ of assessment of damages.

Corporation may hold property by the "writ of assessment of damages."

SEC. 15. Such corporation may file an application for such writ of assessment of damages in the Circuit Court, or Court of Common Pleas, or in vacation, in the office of the Clerk thereof, setting forth the precise description of the real estate desired to be taken, the names of the persons interested therein, making them defendants, and the purposes to which the same is to be converted and refer to the law which authorizes the taking of the property, the Clerk shall thereupon issue to the sheriff a writ of assessment of damages, reciting therein

May apply for assessment of damages to court of common pleas or circuit court.

the material part of the application and direct the sheriff to assess the damages by a jury.

Court to issue
venire to summon
jury.

SEC. 16. The Court upon the application, or the Clerk in vacation, shall issue a venire to summon a jury, to consist of not less than six nor more than twelve, who shall be disinterested freeholders, not owning land within one mile of any part of the bridge or causeway for which the land is taken.

Sheriff to hold
inquest of dam-
ages.

SEC. 17. The sheriff shall proceed to hold the inquest and his proceedings thereon, and the rights of the parties and the persons interested, and the duty of the jurors and their proceedings, shall be in all respects governed according to the provisions of article forty-one, pages 188, 189, 190, 191, 192, 193, of second volume of Revised Statutes of 1852, on the subject of the assessment of damages, so far as the same are applicable.

Not to obstruct
navigation.

SEC. 18. Any such coporation shall not at any time unlawfully, or unnecessarily obstruct the navigation of any navigable stream, by the construction and erection of any such bridge.

Bridge companies
heretofore formed

SEC. 19. Any bridge company incorporated under any general law, are hereby declared to be incorporated under this act, and all bridge companies incorporated under any local or special law, may have and possess all the rights, privileges and benefits of this act, by complying with the conditions herein contained.

Repealing clause.

SEC. 20. That an act entitled an act providing for the incorporation of bridge companies, approved March 9, 1852, also an act entitled an act to amend the first section of an act entitled an act providing for the incorporation of bridge companies, approved March 7, 1857, so as to authorize bridge companies to construct embankments across low bottoms, and receive toll and obtain the right of way, be and the said acts are hereby repealed.

CHAPTER XV.

AN ACT to prevent the spread of the Canada thistle, prescribing penalties for suffering the same to mature upon cultivated farms and public highways, and to prescribe penalties for selling seeds or grain containing Canada thistle seed.

[APPROVED MARCH 2, 1859.]

WHEREAS, it is represented that Canada thistle has made its appearance in some portions of our State, therefore,

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That every person or persons who shall knowingly allow Canada thistle to grow and mature upon his or her farm, or upon any farm which they may have under their charge, without attempting its extirpation, and every supervisor who shall knowingly allow Canada thistle to grow and mature in any public highway on which said supervisor has supervision, shall be deemed guilty of a misdemeanor, and upon conviction be fined, for the first offense, in any sum not less than one dollar nor more than five dollars, and for the second and each subsequent offense, upon conviction, be fined in any sum not less than five nor more than twenty-five dollars.

Allowing Canada thistle to grow, a misdemeanor.

Punishment therefor.

SEC. 2. Every person who shall knowingly sell and dispose of any clover seed, grass seed, wheat, or any other grain containing Canada thistle seed, shall, upon conviction, be fined in any sum not less than twenty-five dollars nor more than two hundred dollars.

Selling seed of thistle a misdemeanor.

Punishment for.

SEC. 3. It is hereby declared that an emergency exists for the immediate taking effect of this act, and that the same shall be in force from and after its passage and approval by the Governor.

Emergency.

CHAPTER XVI.

AN ACT providing for the incorporation of Canal Companies.

[APPROVED MARCH 9, 1859.]

Canal companies,
how formed.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That any number of persons may form themselves into a corporation, for the purpose of constructing and owning any canal hereafter to be built in this State, or for repairing, rebuilding, reconstructing, and operating any canal, or any portion thereof, hereafter made and constructed in this State, whenever the said last mentioned canal, or any part thereof, shall be abandoned, given up, or leased by the parties owning or claiming the same, to any company incorporated under this act: *Provided, however*, That no new canal shall be built or constructed under this act in any county in this State, unless the consent to build and make the same is first had and obtained of record, from the board of county commissioners of the county in which said new canal is to be made and constructed.

Proviso.

Requirements of
such companies.

SEC. 2. That the company or companies formed under this act shall comply with the following requirements: They shall unite in articles of association, setting forth the name they assume, the points between which said canal is to be built, rebuilt, repaired, or reconstructed; the amount of capital stock, and the number of shares into which it is to be divided; the names and places of residence of the stockholders, and the amount of stock taken by each, shall be subscribed to said articles of association; and the same, when drawn up and signed by the stockholders, shall be recorded in each and every county through which said canal may be made, constructed, or repaired; *Provided*, the same shall be made, constructed, or repaired in more than one county.

May increase
capital stock with
consent of stock-
holders.

SEC. 3. It shall be lawful for any canal company which may be organized under this act to increase their capital stock, for the purpose of making such canal, or reconstructing, rebuilding, or repairing the same, or any part thereof, as is provided in the first section of this act, or for any other purpose connected with the organization of said company; but before any such increase of the capital stock of said company is made, said company shall have obtained the consent of so many stock-

holders thereof as shall be the owners in the aggregate of at least three-fifths of the original stock.

SEC. 4. Not less than five nor more than seven directors shall be elected by the stockholders of such corporation, who shall hold their offices for one year, and until their successors are appointed. Notice of the election of the directors shall be given, by three weeks' publication in some newspaper printed in the county or counties through which said canal may run; or if no newspaper is printed in any county through which said canal may run, then by a written notice, to be stuck up in three of the most public places of said county, one at the seat of justice.

Number of directors, term of office, &c.

Notice of election to be given.

SEC. 5. Any board of directors elected under this act may organize, by choosing a president and secretary, and such other officers as may be required to carry out the purposes of their incorporation, and from thence shall be known as the ——— canal company, and shall be capable of suing and being sued, pleading and being impleaded, defending and being defended, in any court of competent jurisdiction.

Directors to choose president and other officers.

SEC. 6. Any corporation formed under this act may have a common seal, and the same use, alter, or change at pleasure, and be capable of purchasing, holding, using and conveying any estate, real or personal, that may be deemed necessary as an appendage to the canal, or needed in the construction or repair of the same.

May have seal, and own real estate.

SEC. 7. The directors shall at all times keep, or cause to be kept, at some proper place to be agreed on by them, proper books of accounts, in which shall be entered all the transactions of the company; which books shall be at all times subject to the inspection of the stockholders.

Shall keep books of accounts, &c., to be open for inspection.

SEC. 8. The officers so elected shall provide a code of by-laws for the government of the corporation, regulating the use and navigation of the canal, the tariff of tolls and water rents on the same; which by-laws, when approved by a majority of the stockholders, shall become a law, and binding until altered or amended by a vote of an annual or called meeting of the stockholders. A statement of the rate of tolls assessed for the navigation of the canal shall be posted up along the line of the same, in such conspicuous places as may be determined on by the directors.

Officers of company to form a code of by-laws, regulate tolls, &c.

Rate of tolls to be posted up publicly.

SEC. 9. The president and directors shall fill all vacancies that may occur in their body; they may sit on their own adjournment or a call of the president;

President and directors to fill vacancies.

President may
call meeting.

and when the president or secretary is absent, the directors may appoint one of their members to fill the vacancy. The president may, if he deems it advisable for the interests of the company, call a meeting of the stockholders at any time.

Elections, how
held; ratio of
votes.

SEC. 10. At all elections of directors, each stockholder shall be entitled to vote in person or by proxy, in the manner and form prescribed by the by-laws, and according to the following scale: For each share not exceeding five, one vote; for every ten shares, two votes; for every five shares not exceeding twenty, four votes; and for every five shares over twenty, one vote.

Certificates of
stock.

SEC. 11. Certificates of stock shall be given to the stockholders, which shall be evidence of the stock held, to be signed by the president and secretary, the same to be transferable on the books of the company only; but such stock shall be held at all times by the company for any delinquency in the payment of any assessment.

Transferable;
may be held for
delinquency.

President and di-
rectors may regu-
late tolls, rents of
water-power, &c.

SEC. 12. The directors of any canal organized under this act shall have the power of regulating the tolls on the same, and the water rents of said canal: *Provided, however,* said tolls and water rents shall be in accordance with the tariff of tolls and water-rents on similar works.

Canal construct-
ed under this act
to be deemed a
public highway.

SEC. 13. Any canal made, constructed, rebuilt, repaired, or reconstructed under this act, when so made, constructed, rebuilt, repaired, or reconstructed, shall be deemed and taken as a public highway, and free to all persons whatever to pass and repass with their boats or other water craft, and with their produce, goods and chattels, wares and merchandise; such persons conforming to such rules and regulations as may be established by the company for the navigation of said canal, and paying such tolls as may be established and required for the same.

Not permitted to
change course of
canal, or convert
to any other use.

SEC. 14. That any company or companies organized under this act, and obtaining possession of any canal or part thereof, heretofore built within this State, under a grant, lease, or gift of the same, from the parties who built the same, or were the owners, legal or equitable, of the same at the time of said grant, lease, or gift, shall not be allowed or permitted to change or divert the same to any other use or purpose from that for which said canal was originally built and constructed, but the same shall for all time to come, except when undergoing repairs, be kept navigable, a public high-

way, free to all persons whatever to pass and repass with their boats or other water craft, and with their produce, goods and chattels, wares and merchandise, such persons conforming to such rules and regulations as the company may prescribe, and to the payment of such tolls as may be established and required for the navigation of the same; and any such company or companies changing or diverting said canal to any other purpose than navigating the same with boats and other water craft, in the transportation of persons or property along said canal, shall forfeit all rights, privileges and immunities granted under this act; and the change and diversion of said canal to any other purpose than as provided in this section, to wit, a navigable canal for boats and other water craft, in the transportation of persons and property along the same, shall work as a forfeiture of any grant, lease, or gift made under the provisions of this act.

In case of refusal or failure to transport goods, &c., to forfeit rights, privileges, &c.

SEC. 15. All canal companies now in existence in this State, or which shall hereafter be organized, may have and possess all the benefits of this act, by complying with the conditions herein contained.

Canal companies now organized may have benefit of this act.

SEC. 16. That an emergency exists for the immediate taking effect of this act; therefore, that this act take effect and be in force from and after its passage.

Emergency.

CHAPTER XVII.

AN ACT to provide for the transferring of the certificates of the stock of the State of Indiana, providing for a registry of the same, and to prevent a fraudulent issue thereof, and providing a punishment for violation of the provisions of this act.

[APPROVED MARCH 5, 1859.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That each and every person owning or holding any certificate or certificates of stock of the State of Indiana, wishing to transfer the same, shall deliver said certificate or certificates of stock to the Agent of State in the City of New York, taking from him a receipt therefor, and said Agent shall immediately forward the same to the Auditor of State, who shall

Certificates of stock, how transferred.

cancel the same, and issue a new certificate or certificates of stock, as the case may require, which shall be signed by the said Auditor and also by the Treasurer of State, and immediately returned to the Agent of State in the City of New York.

Agent of State's
duty.

SEC. 2. Said Agent of State shall, upon the reception of said certificate or certificates of stock, sign and register the same in a book prepared for that purpose, after which he shall deliver the same to the proper person upon presentation of the receipts given by him for said certificate or certificates of stock.

Auditor of State's
duty.

SEC. 3. The Auditor of State, after the cancelling of said certificate or certificates of stock, shall file the same in his office for preservation and reference, and before sending the new certificate or certificates of stock to the Agent of State, shall register the same in a book prepared for that purpose.

Certificates transferred otherwise
fraudulent.

SEC. 4. That any and all certificate or certificates of stock issued or transferred in violation of the provisions of this act, shall be deemed fraudulent and void as against the State of Indiana.

Emergency.

SEC. 5. Whereas, there is now no law in force upon the above subject, it is hereby declared that an emergency exists for its immediate taking effect, it is therefore declared to be in force from and after its passage and publication in the Indiana State Sentinel and State Journal.

NOTE.—Published in Sentinel, March 10, in Journal, March 11.

CHAPTER XVIII.

AN ACT to legalize the appraisement and assessment of property in the Cities of this State, and the making out and delivering of the tax duplicates in the Cities of this State incorporated under the act of 1857.

[APPROVED MARCH 3, 1859.]

Certain appraisement
legalized.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That in all cases in which the assessors of cities in this State, shall have made a full and fair list and appraisement of all persons and property liable by law to taxation, in any of the cities of this State in-

incorporated under the act approved March 9, 1857, entitled "an act to repeal all general laws now in force for the incorporation of cities, and to provide for the incorporation of cities, prescribe their powers and rights, and the manner in which they shall exercise the same, and to regulate such other matters as properly pertain thereto, and all other lists in accordance with the provisions thereof;" be, and the same are hereby legalized and declared valid and sufficient as if made out before the first Monday in May in each year.

SEC. 2. That all of the tax duplicates in such cities, which have been made and delivered after the first Monday in August to the treasurers of such cities, as provided in section forty-five of said act, be and the same are hereby legalized and declared to be valid and sufficient, as if made out before the first Monday in August in each year.

Tax duplicates
made valid.

SEC. 3. That inasmuch as the taxes of the current year may be delayed in collection in such cities by reason of a failure to make out said appraisements and duplicates in time, therefore an emergency for the immediate taking effect of this act exists, and it shall be in force from and after its passage.

Emergency.

CHAPTER XIX.

AN ACT to amend section two of an act to incorporate the Ohio and Mississippi Railroad Company, so as to authorize its Board of Directors to reduce the amount of its capital stock and the nominal value of the shares, and to issue certificates therefor.

[APPROVED MARCH 3, 1859.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That section two of an act entitled "an act to incorporate the Ohio and Mississippi Railroad Company," passed February 14, 1848, which is in the following words, to wit:

Sec. 2 amended.

"The capital stock of said company shall be five millions of dollars, to be divided into shares of fifty dollars each: *Provided*, That if the capital stock of said company, or the actual amount at any time subscribed, shall be deemed insufficient for the purposes of this act, it shall and may be lawful for the president and directors of said company,

from time to time, to increase the said stock by the addition of as many shares as they may deem necessary, for which they may at their option cause subscriptions to be received in the manner prescribed by them, or may sell the same for the benefit of the company," be amended by adding thereto the following, to wit:

How amended.

The board of directors of said company may, with the written consent of the persons in whose names a majority of the shares of the capital stock thereof shall stand on the books of said company, reduce the amount of said capital stock, and the nominal value of all the shares thereof, and issue certificates therefor: *Provided*, That the rights of creditors shall not be affected or in anywise impaired by the reduction aforesaid.

Proviso.

CHAPTER XX.

AN ACT to secure dues from private corporations, and to extend their immunities to all citizens who may organize on the same terms.

[APPROVED FEBRUARY 25, 1859.]

Dues from corporations.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the dues from all private corporations which have been or may be organized under the general laws and under the present constitution of this State, other than banking and road corporations, and other than those where security has already been provided, shall be secured in the manner hereinafter provided.

Stockholders individually liable, &c.

SEC. 2. The stockholders and members of such corporations shall be individually liable for its debts to an amount equal to the interest or stock which they may respectively have therein, and the privileges or immunities which have been heretofore granted to such corporations, shall, upon the same terms, equally belong to all citizens who may desire to incorporate themselves for the same purposes, subject to the individual liability aforesaid.

CHAPTER XXI.

AN ACT to amend the sixth section of an act providing for the organization of county boards, and prescribing some of their powers and duties, Approved June 17, 1852.

[APPROVED FEBRUARY 16, 1859.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the sixth section of the above act, which reads as follows: Sec. 6 amended.

"Such commissioners shall meet at the court house in each county, on the first Mondays in March, June, September and December, in each year, and in counties whose population is under ten thousand, such commissioners may sit six days at such term; but if the population exceeds ten thousand, they may sit nine days, if the business of the term requires it, the enumeration to be fixed by the last census of the United States, or by the latest enumeration by the State; but if the Circuit Court shall meet on any of the before mentioned days, the commissioners shall meet on the Monday succeeding the term of such court," be and the same is hereby amended so as to read as follows:

Sec. 6. Such commissioners shall meet at the court house in each county, on the first Mondays in March, June, September and December, in each year, and in counties whose population is under ten thousand, such commissioners may sit six days at such term; but if the population exceeds ten thousand, they may sit nine days if the business requires it; the enumeration to be fixed by the last census of the United States or by the State; but if the Circuit Court shall meet on any of the before-mentioned days, the commissioners may meet in the auditor's office. Time and length
of meeting of
county boards.

SEC. 2. There being an emergency for the immediate taking effect of this act, the same shall be in force from and after its passage. Emergency.

CHAPTER XXII.

AN ACT to amend the first section of An Act entitled "An Act to authorize the formation of new counties, and to change county boundaries," approved March 7, 1857, so as to allow new counties to be formed out of territories of less than four hundred square miles, and prescribing how the number of qualified voters shall be ascertained.

APPROVED MARCH 5, 1859.

Section 1 amended.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That section one of an act entitled "an act to authorize the formation of new counties, and to change county boundaries," which reads as follows:

"That whenever a majority of the legal voters to be effected thereby, in any district embracing an area of not less than four hundred square miles, shall desire the formation of a new county, and by written request, petition the board of commissioners of the several counties to be effected by the formation of said new county, and shall designate in such petition the name of said new counties, the boundaries of such proposed county—and which shall be in the form of a square as nearly as the character of the territory out of which said new county is to be formed will permit—and which petition, and the qualifications of the signers thereto, shall be verified by the oath or oaths of competent witnesses, the said boards shall appoint each a committee of three resident freeholders, in each county of the district embraced in such change, who shall form a board of commissioners to lay off and establish the boundaries of the proposed county, conforming to the lines and boundaries named in said petition, and shall report the same to such boards of commissioners of the several counties effected by the formation of said new county, at the next, or some subsequent session, and upon said report being made, the boards of commissioners of the said several counties aforesaid, shall enter upon their order books respectively, an order establishing the boundaries of said new county, shall be by them filed in the office of the Secretary of State; a majority of the commissioners so appointed as aforesaid, shall constitute a quorum to transact business devolving upon said commissioners under this act; *Providing*, however, that no county now organized, which shall contain a greater area than four hundred square miles, shall be reduced below the area of four hundred square miles, and no county now organized which shall contain an area of less than four hundred square miles, shall be further reduced. And upon the establishment of the boundaries of said new county the Governor shall appoint three commissioners to locate a county seat, and for that purpose to receive proposals for grants of lands, for the benefit of said county for public buildings and other public purposes; and from the time said boundaries are established, said new county shall be, to all intents and purposes, an organized county, with all the rights and privileges, that under the law, appertain to organized counties;" shall be, and the same is hereby amended so as to read as follows:

How amended.

That whenever a majority of the legal voters to be effected thereby, in any district embracing an area of not less than two hundred square miles, shall desire the formation of a new county, and by written request pe-

tition the boards of commissioners of the several counties to be effected by the formation of said new county, and shall designate in such petition the name of such new county—the boundaries of such proposed county—and which shall be in the form of a square as nearly as the character of the territory out of which said new county is to be formed will permit—and which petition, and the qualifications of the signers thereto, shall be verified by the oath or oaths of competent witnesses, the said boards shall appoint each, a committee of three resident freeholders in each county of the district embraced in such change, who shall form a board of commissioners to lay off and establish the boundaries of the proposed county, conforming to the lines and boundaries named in said petition, and shall report the same to such board of commissioners of the several counties effected by the location of said new county, at the next or some subsequent session, and upon said report being made, the board of commissioners of the said several counties aforesaid, shall enter upon their order books respectively, an order establishing the boundaries of said new county, shall be by them filed in the office of the Secretary of State; a majority of the commissioners so appointed as aforesaid, shall constitute a quorum to transact business devolving upon said commissioners under this act; *Provided, however,* that no county now organized which shall contain a greater area than four hundred square miles shall be reduced below the area of four hundred square miles, and no county now organized which shall contain an area of less than four hundred square miles shall be further reduced; And upon the establishment of the boundaries of said new county the Governor shall appoint three commissioners to locate a county seat, and for that purpose to receive proposals for grants of lands for the benefit of said county for public buildings and other public purposes; and from the time said boundaries are established, said new county shall be, to all intents and purposes, an organized county, with all the rights and privileges that under the law appertain to organized counties.

Proceedings for
forming new
county.

Proviso.

Location of county seat.

SEC. 2. The number of votes cast for the candidates for congress in such district to be so detached for the formation of a new county, at the last preceding congressional election, shall be deemed to be the whole number of qualified voters of such district.

Ratio of votes.

Governor to appoint sheriff.

SEC. 3. That whenever under any law of this State, a new county hereafter shall have been created, it shall be the duty of the Governor to issue a writ of election, directed to some person in such new county, whom he shall appoint to act as sheriff until the next general election and until his successor is elected and qualified, requiring him to cause an election to be held at such place or places in said county as he may direct, on such day as may be designated in the writ of election, for the purpose of electing one clerk of the circuit court, one county auditor, one county recorder, one county treasurer, one sheriff, and three commissioners.

Officers to be elected.

Officers of election.

SEC. 4. The person to whom the writ of election is directed, shall have power and is required to appoint the necessary officers of such election, which officers of election shall be governed by the law now in force regulating elections, and shall make return to the acting sheriff on the Wednesday following, at such place in the county as he may have designated.

Notice of election

SEC. 5. The person to whom the writ of election is directed in a new county, shall give at least ten days' notice of the time and place, or places, where such election is to be held, and also of the place where the returns are to be made to him, by setting up written notices thereof in three of the most public places in each election district which he may establish in such county; and on return of the election being made to him, and the vote compared according to law, he shall give to each of the commissioners a certificate of his election, and the time he is elected to serve, having a regard to the law, and shall also, within ten days after said returns are so made to him, forward to the Secretary of State a certificate of the persons who were elected to the offices requiring a commission from the Governor.

Administer oaths.

SEC. 6. The person so appointed as sheriff is authorized to administer such oaths as are required by the constitution and laws of the State, certified copies of which he shall file in the offices of the clerks of the circuit courts, whenever it shall be established.

To continue duties of officers in bounds of new counties.

SEC. 7. All officers falling within the bounds of a new county shall continue to exercise the duties of their several offices until they are succeeded by others duly qualified to take their places.

Pending suits.

SEC. 8. No suit or action of any nature whatsoever, commenced in any court of record, or before any justice of the peace, shall in any wise be affected by the laying

off or organizing any new county, and all taxes that may be due the State, or any county in the State, at the time of organizing any new county, shall be collected in the same manner as if such new county had not been organized.

SEC. 9. Said new county shall, for purposes of representation in the State Legislature, when formed out of a county now organized, remain in the district to which the county from which it was taken belonged, until a different apportionment is provided by law, and for judicial purposes shall remain a part of the district to which the original county was attached.

For representative purposes, remain as before being divided.

SEC. 10. Whenever a new county shall have been formed out of a contiguous county or one or more counties, the same shall, for representation and judicial purposes, be attached to the county from which the smallest portion of territory was taken, and the circuit court shall be holden in such new county at such times as the presiding judge, in whose circuit the said new county may be, shall appoint; and said judge shall have full power and authority to make all necessary orders in relation thereto.

In case of being formed from several counties. Judicial purposes.

SEC. 11. It is hereby declared that an emergency exists for the immediate taking effect of this act; therefore, the same shall take effect and be in force from and after its passage.

Emergency.

CHAPTER XXIII.

AN ACT to fix the time of holding the Circuit Courts in the First Judicial Circuit, and repealing all laws in conflict therewith.

[APPROVED MARCH 3, 1859.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the several circuit courts of the first judicial circuit of the State of Indiana, shall be held as follows, to wit: In the county of Ohio, on the second Mondays of February and August of each year; in the county of Ripley, on the Mondays succeeding the courts in the county of Ohio; in the county of Jennings, on the Mondays succeeding the courts in the county of Ripley; In the county of Jefferson, on the

Time of holding courts in first circuit.

Mondays succeeding the courts in the county of Jennings; in the county of Bartholomew, on the Mondays succeeding the courts in the county of Jefferson; in the county of Switzerland, on the Mondays succeeding the courts in the county of Bartholomew; in the county of Brown, on the Mondays succeeding the courts in the county of Switzerland.

Length of terms. **Repealed.** SEC. 2. The said courts, if the business require it, shall sit in the following counties of Ohio, Ripley, Jennings, Bartholomew and Switzerland, two weeks each; in the county of Brown, one week, and in the county of Jefferson, three weeks at each and every term.

Repealed. SEC. 3. All laws contravening the provisions of this act are hereby repealed.

Emergency. SEC. 4. Inasmuch as the courts in said circuit are about to commence, and will be holden before the regular publication of the laws of the present session of the General Assembly, it is therefore declared that an emergency exists for the immediate taking effect of this act; it shall therefore take effect and be in force from and after its passage and publication in the State Sentinel and Indiana Journal; and it is hereby made the duty of the Secretary of State to forward a copy of this act to each of the clerks of said courts.

NOTE.—Published in Sentinel, March 4, and in Journal, March 5, 1859.

CHAPTER XXIV.

AN ACT to repeal all laws now in force establishing the times of holding Circuit Courts in the Second Judicial Circuit, and to fix the times of holding said Courts.

[APPROVED FEBRUARY 1, 1859.]

Time of holding courts in second circuit.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That all laws now in force establishing the times of holding circuit courts in the second judicial circuit be and they are hereby repealed.

SEC. 2. The circuit courts in the second judicial circuit shall be held as follows, to wit: In Clark county, on the first Mondays of February and August; in Scott county, on the third Mondays of February and August; in Jackson county, on the fourth Mondays of February and August; in Orange county, on the first Mondays of

March and September; in Lawrence county, on the second Mondays of March and September; in Washington county, on the fourth Mondays of March and September; in Crawford county, on the first Mondays of April and October; in Harrison county, on the second Mondays of April and October; in Floyd county, on the fourth Mondays of April and October. The Court shall sit in Clarke, Lawrence and Harrison, two weeks each; in Floyd, four weeks; and in each of the other counties aforesaid, one week, if the business shall require it. Length of terms.

SEC. 3. All process returnable to the next term of any of the courts aforesaid, as heretofore fixed, is hereby made returnable to the next term of said court, as fixed by this act; and all orders of court and publications, as well as recognizances, having reference to the next terms of said circuit courts, shall be taken as having reference to said next terms respectively, as fixed by this act, and all persons shall take notice of the times of holding said courts as herein fixed. Process, how returnable, &c.

SEC. 4. Whereas an emergency exists requiring this act to take effect immediately, it shall therefore take effect from and after its passage; and it shall be the duty of the Secretary of State to send a copy of this act to each of the clerks of the said circuit courts. Emergency.

CHAPTER XXV.

AN ACT prescribing the time of holding and the length of terms of the Courts in the Third Judicial Circuit.

[APPROVED MARCH 2, 1859.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the terms of courts in the third judicial circuit shall be held as follows: In the county of Dubois, on the fourth Monday in January and July; in the county of Gibson, on the Monday succeeding the court in the county of Dubois; in the county of Knox, on the Monday succeeding the court in the county of Gibson; in the county of Daviess, on the Monday succeeding the court in the county of Knox; in the county of Martin, on the Monday succeeding the Time of holding court in third circuit.

court in the county of Daviess, and in the county of Pike, on the Monday succeeding the court in Martin county.

Length of terms.

SEC. 2. Said courts shall be held in Dubois, Pike and Martin counties, one week each; in Gibson and Daviess counties two weeks each, and in Knox county three weeks.

CHAPTER XXVI.

AN ACT fixing the time of holding Courts in the Fifth Judicial Circuit, and repealing all laws in conflict therewith.

[APPROVED FEBRUARY 2, 1859.]

Times of holding courts in fifth circuit.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the circuit courts in the fifth judicial circuit in this State, shall hereafter be held as follows, namely: In the county of Hendricks, on the fourth Mondays in February and August, in each year; In the county of Johnson, on the Mondays next succeeding the courts in the county of Hendricks; and in the county of Marion, on the Mondays next succeeding the courts in the county of Johnson. The said courts, if the business so long require it, shall sit in the counties of Hendricks and Johnson, two weeks each, and in the county of Marion, eight weeks.

Length of terms.

Parties required to take notice of change of time.

SEC. 2. All parties in said circuit courts, and all witnesses, jurors, officers, or other persons concerned, shall take notice of this act; all writs or notices that may have been issued or served, before the taking effect of this act, in relation to matters now pending in any of said courts, are hereby made returnable to the first day of the next term of said courts, as fixed by this act; and all suits, recognizances, motions, rules, and other proceeding, which at the time of the taking effect of this act shall be pending in any of said courts, shall be acted upon therein in the same manner as if this act had been in force at the time they were taken, commenced, or instituted.

Contravening laws repealed.

SEC. 3. All laws or parts of laws contravening the provisions of this act be and the same are hereby repealed.

SEC. 4. It is hereby declared that an emergency exists for the immediate taking effect of this act; it shall therefore be in force from and after its passage and publication in the Indiana Journal and State Sentinel; and it is hereby made the duty of the Secretary of State to forward a copy hereof to each of the clerks of said courts. Emergency.

NOTE.—Published in the Indiana State Sentinel, February 12, 1859, and in the State Journal, February 15, 1859.

CHAPTER XXVII.

AN ACT prescribing the time of holding the Circuit Court in the county of Sullivan, and to repeal all laws in conflict with this act.

[APPROVED MARCH 4, 1859.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the Circuit Court of the county of Sullivan shall sit in said county on the Mondays next before the last Mondays in February and August in each year, and shall sit two weeks at each term, if the business require it. Times of holding circuit court in Sullivan county.

SEC. 2. All parties, witnesses, and other persons interested, or having business in said court, shall take notice of this act; all writs that may have been issued or served for the August term, 1859, of said court, are hereby made returnable to the first day of said August term, as fixed by this act; and all causes, suits, and proceedings pending in said court, shall stand for trial at the next term in the same manner as if this act was in force at the time they were instituted or continued. Parties to take notice.
Return of writs.

SEC. 3. All laws coming in conflict with this act are hereby repealed. Repealing clause.

SEC. 4. It is hereby declared that an emergency exists for the immediate taking effect of this act; it is therefore declared to be in force from and after its passage. Emergency.

CHAPTER XXVIII.

AN ACT attaching the counties of Hancock, Madison, Hamilton, Tipton and Howard to the Seventh Judicial Circuit, and fixing the time of holding Circuit Courts in said circuit; and also repealing all laws conflicting therewith.

[APPROVED FEBRUARY 1, 1859.]

Hancock, Madison, Hamilton, Tipton and Howard counties, attached to seventh circuit.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the counties of Hancock, Madison, Hamilton, Tipton and Howard, are hereby attached to, and shall hereafter form a part of the seventh judicial circuit of this State.

Times of holding courts in said circuit.

SEC. 2. That circuit courts in said circuit shall be held as follows, namely: In the county of Hancock, on the second Mondays in February and August, in each year; in the county of Madison, on the fourth Mondays of February and August; In the county of Hamilton, on the second Mondays in March and September; in the county of Tipton, on the fourth Mondays of March and September; in the county of Blackford, on the second Mondays of April and October; in the county of Howard, on the fourth Mondays of April and October; and in the county of Delaware, on the first Mondays of May and November.

Length of terms.

SEC. 3. The said courts, if the business thereof so require it, shall sit in the counties of Hancock, Madison and Hamilton, two weeks each; in the counties of Tipton, Howard and Blackford, one week each; and in the county of Delaware, three weeks each term.

All parties, officers, etc., required to take notice of this act.

SEC. 4. All parties in said circuit courts, and all witnesses, jurors, officers, or other persons concerned, shall take notice of this act; all writs or notices that may have been issued or served before the taking effect of this act, in relation to matters now pending in any of said courts, are hereby made returnable to the first day of the next term of said courts, as fixed by this act; and all suits, recognizances, motions, rules, and other proceedings, which at the time of the taking effect of this act, shall be pending in any of said courts, shall be acted upon therein, in the same manner as if this act had been in force at the time they were taken, commenced, or instituted.

Process, etc., how returnable.

SEC. 5. All acts contravening the provisions of this act are hereby repealed. Contravening laws repealed.

SEC. 6. As the fifth and eleventh judicial circuits, to which the counties above attached to the seventh circuit, have hitherto been attached to the fifth and eleventh circuits, are too large, it is hereby declared that an emergency exists for the immediate taking effect of this act, it shall therefore be in force from and after its passage and publication in the Indiana Journal and State Sentinel; and it is hereby made the duty of the Secretary of State to forward a copy thereof to each of the clerks of said courts. Emergency.

NOTE.—Published in the State Sentinel and State Journal, February 9, 1859.

CHAPTER XXIX.

AN ACT to fix the terms of the Hancock Circuit Court, after the next term thereof, and to authorize the Court, at each term thereof, to continue in session two weeks, if the business requires it.

[APPROVED MARCH 5, 1859.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That after the next term of the Hancock Circuit Court, commencing on the fourth Monday of May, 1859, the terms of said court shall commence on the second Mondays of August and February in each year, and shall continue in session two weeks at each term, if the business requires it. Future terms of Hancock Circuit Court, when held. Length of terms.

SEC. 2. All laws and parts of laws conflicting with the provisions of this act be and the same are hereby repealed. Contravening laws repealed.

CHAPTER XXX.

AN ACT to repeal all laws fixing the time of the commencement of the next term of the Hancock Circuit Court, and to fix the time of holding said Court, and to require all parties, jurors, witnesses, and all others interested, to take notice thereof.

[APPROVED FEBRUARY 11, 1859.]]

Contravening
laws repealed.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That all laws now in force fixing the time of holding the next Circuit Court in the county of Hancock, be and the same are hereby repealed.

First term of
Hancock Circuit
Court, when
held.

SEC. 2. The next term of the Hancock Circuit Court shall be held on the fourth Monday of May, A. D. 1859, and may be held two weeks, if the business require it.

Process, etc.,
returnable.

SEC. 3. All process returnable to the next court, as heretofore fixed, is hereby made returnable to the next term of said court, as fixed by this act; and all orders of court, recognizances, and publications having reference to the next term of said court, shall be taken as having reference to the said next term, as fixed by this act; and all parties, jurors, witnesses, and others interested, shall take notice of the time of holding said court, as herein fixed.

Emergency.

SEC. 4. It is hereby declared that an emergency exists for the immediate taking effect of this act, and it shall therefore be in force from and after its passage.

CHAPTER XXXI.

AN ACT to fix the time of holding the Circuit Courts in the Ninth Judicial Circuit, and repealing all laws inconsistent therewith.

[APPROVED FEBRUARY 15, 1859.]

Times of holding
courts in ninth
circuit.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the circuit courts shall be held in the county of Marshall, on the second Mondays of February and August in each year; in the county of Fulton, on the Mondays succeeding the courts in the county of Marshall; in the county of Pulaski, on the

COURTS, CIRCUIT.

Mondays succeeding the courts in the county of Fulton; in the county of Starke, on the Mondays succeeding the courts in the county of Pulaski; in the county of Lake, on the Mondays succeeding the courts in the county of Starke; in the county of Porter, on the Mondays succeeding the courts in the county of Lake; in St. Joseph county, on the Mondays succeeding the courts in the county of Porter; and in the county of Laporte, on the Mondays succeeding the courts in the county of St. Joseph.

SEC. 2. The terms of the said courts, if their business require it, shall be in Laporte county three weeks; in St. Joseph, Marshall and Porter counties, two weeks each; and in the counties of Fulton, Pulaski, Starke and Lake, one week each.

Continuance of terms.

SEC. 3. All process made returnable to any of the circuit courts of the counties aforesaid, at the times heretofore fixed for holding the session thereof, shall be and the same are hereby made returnable on the first days of the term of said courts respectively, as fixed by this act; and all notices to appear in any of said courts at the times heretofore fixed for the holding the sessions thereof, shall be notices to appear therein at the times fixed by this act.

Return of process, writs, etc.

SEC. 4. Inasmuch as the time of holding three of said courts is changed, and the term of said court in Porter county is extended to two weeks, an emergency exists for the immediate taking effect of this act, and the same shall be in force from and after the first day of June, 1859.

Emergency.

SEC. 5. All laws inconsistent hereby are repealed, and the Secretary of State is required to forward copies of this act to the clerks of the circuit courts of the counties of Porter, Laporte and St. Joseph, immediately, and cause the same to be printed in one or more of the newspapers of each of said counties.

Duty of Secretary of State.

CHAPTER XXXII.

AN ACT fixing the times of holding Courts in the Eleventh Judicial Circuit, and prescribing the length thereof in each county thereof.

[APPROVED JANUARY 29, 1859.]

Length of terms
of courts in
eleventh circuit.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That hereafter the courts in the eleventh judicial circuit shall be held as follows, to wit: In the counties of Wabash, Huntington and Cass, three weeks each; in the counties of Grant, Miami and Carroll, two weeks each.

Times of holding.

SEC. 2. The times of holding courts in said counties shall commence as follows, to wit: In the county of Grant, on the third Monday in February and third Monday in August, in each year; in the county of Wabash, on the first Monday in March and fourth Monday in September; in the county of Huntington, on the fourth Monday in March and first Monday in September; in the county of Miami, on the Monday succeeding the court in the county of Huntington, in the spring, and the Monday preceding the court in the county of Wabash, in the fall; in the county of Cass, on the Monday succeeding the court in the county of Miami; in the county of Carroll, on the Monday succeeding the court in the county of Cass.

Writs, venires,
etc.

SEC. 3. All writs, subpoenas, venires, rules, orders, recognizances, publications and process whatever, which may have issued from said circuit court in said counties since the last session thereof, or which may hereafter issue previous to the commencement of said terms, shall be deemed and taken to be and are hereby made returnable to the first day of the first term of said court, to be holden in virtue of this act.

Emergency.

SEC. 4. In consequence of the regular terms of said court commencing before the law [laws] of this session can be published and distributed, it is hereby declared that an emergency exists for the immediate taking effect of this act; it is therefore declared to be in force from and after its passage, and the Secretary of State is hereby required to certify a copy hereof to each of the clerks of the circuit court in each county in said district.

CHAPTER XXXIII

AN ACT supplemental to an act, entitled "An Act fixing the times of holding Courts in the Eleventh Judicial Circuit, and prescribing the length thereof in each county thereof," approved January —, 1859.

[APPROVED MARCH 5, 1859.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the second section of the above recited act, which reads as follows: Foregoing not amended.

"SEC. 2. The times of holding courts in said counties shall commence as follows, to-wit: in the county of Grant on the third Monday in February and third Monday in August in each year; in the county of Wabash on the first Monday in March and fourth Monday in September; in the county of Huntington on the fourth Monday in March and first Monday in September; in the county of Miami, on the Monday succeeding the court in the county of Huntington in the spring, and the Monday preceding the court in the county of Wabash in the fall; in the county of Cass on the Monday succeeding the court in the county of Miami; in the county of Carroll, on the Monday succeeding the court in the county of Cass;" be and the same is hereby amended so as to read as follows:

Sec. 2. The times of holding courts in said counties, How amended. shall commence as follows, to wit: in the county of Grant on the third Monday in February and third Monday in August in each year; in the county of Wabash on the first Monday in March and fourth Monday in September in each year; in the county of Huntington on the fourth Monday in March and first Monday in September; in the county of Miami on the Monday succeeding the court in the county of Huntington in the spring, and the Monday succeeding the court in the county of Wabash in the fall, to continue three weeks if the business thereof shall require it; in the county of Cass on the Monday succeeding the court in the county of Miami; in the county of Carroll on the Monday succeeding the courts in the county of Cass.

SEC. 2. An emergency exists for the immediate tak- Emergency. ing effect of this act; it is therefore declared to be in force from and after its passage; and the Secretary of State is required to send certified copies of this act to each of the clerks of the court in said circuit.

CHAPTER XXXIV.

AN ACT fixing the time for holding the Circuit Courts in the Twelfth Judicial Circuit, regulating the terms thereof, and repealing all laws inconsistent therewith.

[APPROVED MARCH 2, 1859.]

Time of commencing courts in twelfth circuit, and length of terms.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the time for holding the circuit courts in the twelfth judicial circuit be fixed as follows: Said courts in said circuit shall commence in the county of Benton on the first Mondays of March and September, in each year, and held one week, if the business thereof require it; in the county of Jasper, on the Mondays succeeding the courts in the county of Benton; and hold two weeks, if the business thereof require it; in the county of White, on the Mondays succeeding the courts in the county of Jasper, and hold two weeks, if the business thereof require it; in the county of Tippecanoe, on the Mondays succeeding the courts in the county of White, and hold as long as the business thereof may require.

Return of process, writs, etc.

SEC. 2. All writs, subpoenas, venires, orders of court, recognizances, publications, or process whatever, which may have issued from the circuit court in said counties, or which may hereafter be issued previous to the commencement of said terms as herein provided, shall be and are hereby made returnable to the first day of the terms of said courts respectively, to be holden as is provided in this act.

Contravening acts repealed.

SEC. 3. All laws or parts of laws coming in conflict with the provisions of this act, be and the same are hereby repealed.

Emergency and duty of Auditor of State.

SEC. 4. Whereas, an emergency exists for the immediate taking effect of this act, in order that the business of said courts may be properly prepared by the officers thereof, it shall therefore be in force and take effect from and after its passage, and the Auditor of State shall immediately forward copies of the same to the clerks of the circuit courts of the several counties comprising said judicial circuit.

CHAPTER XXXV.

AN ACT to amend sections eight and nine of an act entitled "An act creating the Twelfth and Thirteenth Judicial Circuits, and providing for the election of Judges thereof," approved February 9th, 1855.

[APPROVED FEBRUARY 9, 1859.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That section eight of said act, which reads as follows, to wit: Sec. 8 amended.

"The continuance of the terms of court in the several counties of said thirteenth circuit, shall be as follows, to wit: In the counties of Randolph and Jay, the court shall sit two weeks, if the business thereof shall require it; in the county of Henry, three weeks, if the business require it; and in the county of Wayne, four weeks, if the business thereof require it," be and the same is hereby so amended as that the courts in the several counties in said circuit shall sit as follows, to wit:

In the county of Wayne, five weeks at its said first term after the passage of this act, and at each succeeding term six weeks, if the business thereof require it; in the county of Randolph, three weeks, if the business thereof require it; in the county of Jay, two weeks, if the business thereof require it; and in the county of Henry, so long as the business thereof require it. How amended.

SEC. 2. That section nine of said act, which reads as follows, to wit: Sec. 9 amended.

"The terms of courts in said counties shall commence as follows, to wit: In the county of Wayne, on the first Mondays in March and September, in each year; in the county of Randolph, on the fourth Mondays succeeding the commencement of the courts in the county of Wayne; in the county of Jay, on the second Mondays succeeding the commencement of the courts in the county of Randolph; in the county of Henry, the second Mondays succeeding the commencement of the courts in the county of Jay," be and the same is hereby amended so that the courts in the several counties shall commence as follows, to wit:

The first terms of said courts after the passage of this act, shall be held as follows, to wit: In the county of Wayne, on the third Monday in February; in the county of Randolph, on the fifth Monday succeeding the courts in the county of Wayne; in the county of Jay, on the third Monday succeeding the courts in the county of Randolph; and in the county of Henry, on the second Mondays succeeding the courts in the county of Jay; and after the said several terms shall have been so held, the terms thereafter, in the several counties, shall be held as follows: In the county of Wayne, on the first How amended.

Mondays in February and August; in the county of Randolph, on the sixth Mondays succeeding the courts in the county of Wayne; in the county of Jay, on the third Mondays succeeding the courts in the county of Randolph; in the county of Henry, on the second Mondays succeeding the courts in the county of Jay.

Writs, venires,
etc.

SEC. 3. All writs, subpœnas, venires, rules, orders of court, recognizances, publications and process, of whatever nature, which have issued in any of said courts, or which may hereafter issue before the commencement of said terms, shall be deemed and taken to be and are hereby made returnable to the first day of said terms, as provided for in this act.

Emergency.

SEC. 4. It is hereby declared that an emergency exists for the immediate taking effect of this act, the same shall therefore be in force from and after its passage.

CHAPTER XXXVI.

AN ACT to create the fifteenth Judicial Circuit.

[APPROVED FEBRUARY 22, 1859.]

Counties com-
prising fifteenth
circuit.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the counties of Posey, Vanderburgh, Warrick, Spencer, Perry and Crawford, shall hereafter constitute a new judicial circuit, to be called the fifteenth judicial circuit.

Times of holding
courts.

SEC. 2. The terms of courts in said counties shall commence as follows, to wit: In the county of Crawford, on the second Mondays of February and August, in each year; in the county of Perry, on the Mondays succeeding the courts in the county of Crawford; in the county of Spencer, on the Mondays succeeding the courts in the county of Perry; in the county of Warrick, on the Mondays succeeding the courts in the county of Spencer; in the county of Posey, on the Mondays succeeding the courts in the county of Warrick; and in the county of Vanderburgh, on the Mondays succeeding the courts in the county of Posey.

Length of terms.

SEC. 3. Said courts, if the business thereof require it, shall sit in the counties of Crawford and Warrick, one week each; in the counties of Perry, Spencer and

Posey, two weeks each; and in the county of Vanderburgh, as long as the business thereof may require it.

SEC. 4. All process issued, or that may issue in said counties, are made returnable to the first day of said courts, to be holden in pursuance to this act. Return of process.

CHAPTER XXXVII.

AN ACT fixing the time of holding Courts of Common Pleas, and the length of terms thereof, in the counties of Delaware and Blackford for the years 1859 and 1860, and repealing all laws in conflict therewith.

[APPROVED MARCH 5, 1859.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the courts of common pleas in the county of Blackford, for the years 1859 and 1860, shall commence on the third Mondays of January, April, July and October, and shall sit one week at each term if the business thereof require it. Time and length of terms of C. P. court in Blackford county.

SEC. 2. That the court of common pleas in the county of Delaware, for the years 1859 and 1860, shall commence on the first Mondays in January, April, July and October of each year, and shall sit two weeks each term, if the business thereof require it. Time of holding courts in Delaware county.

SEC. 3. All laws and parts of laws coming in conflict with the provisions of this act, be and the same are hereby repealed. Repealing clause

SEC. 4. Whereas, an emergency exists for the immediate taking effect of this act, it is therefore declared that this act shall be in force from and after its passage. Emergency.

CHAPTER XXXVIII.

AN ACT fixing the time of holding the Cass Court of Common Pleas.

[APPROVED MARCH 5, 1859.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the terms of said court of common pleas of Cass county shall be commenced and held as follows, to-wit: commencing on the first Mondays of February and September respectively, and be Court Common Pleas in Cass county.

held three weeks each term, if the business thereof require it; and on the last Monday of April and October, and be held one week each term if the business thereof require it.

Emergency.

SEC. 2. It is declared that an emergency exists for the immediate taking effect of this act, and it is therefore declared to be in force from and after its passage and publication in the Democratic Pharos, at Logansport in Cass county.

NOTE.—Published in the Pharos, March 16, 1859.

CHAPTER XXXIX.

AN ACT to fix the time for holding the Courts of Common Pleas in the district composed of the counties of Elkhart and Lagrange, and to repeal all other laws or parts of laws inconsistent with this act.

[APPROVED MARCH 5, 1859.]

Court C. P. in
Elkhart and La-
grange.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the Court of common pleas shall sit in the county of Lagrange on the first Mondays in February, May, August and November, in each year, and shall set two weeks at each term if the business require it; and in the county of Elkhart on the first Tuesday after the third Monday in February, May, August and November, in each year, and shall set at each term while the business thereof shall require it; and all process made returnable to any of the courts of common pleas in said counties, at the times heretofore fixed for holding the sessions thereof, shall be and the same are hereby made returnable to the first day of the terms of said courts respectively, as fixed by this act; and all laws inconsistent with this act are repealed.

Contravening
laws repealed.

Emergency

SEC. 2. That an emergency exists for the taking effect of this act by the first day of March, 1859, therefore this act shall take effect and be in force from and after the first day of March, 1859, and the Secretary of State is directed to transmit to the clerks of the Elkhart and Lagrange common pleas courts, a certified transcript of this act.

CHAPTER XL.

AN ACT fixing the time of holding the Courts of Common Pleas in the county of Hendricks, and the length of the terms thereof; and repealing all laws in conflict therewith.

[APPROVED MARCH 5, 1859.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the court of Common Pleas in the county of Hendricks shall be held as follows, to-wit: on the third Mondays in January, April, July and October, and shall set two weeks at each term, if the business require it.

Common Pleas courts in Hendricks county.

SEC. 2. All process made returnable to the court of common pleas of the county aforesaid, at the terms heretofore fixed for holding the sessions thereof, shall be and the same are hereby declared and made returnable to the first days of the terms of said court as fixed by this act; and all parties, officers, witnesses, and all persons are hereby respectfully required to take notice of the change of time of holding courts as herein made.

Process returnable.

SEC. 3. All laws and parts of laws, coming in conflict with the provisions of this act, are hereby repealed.

Contravening laws repealed.

SEC. 4. It is hereby declared that an emergency exists for the taking effect of the provisions of this act; and therefore, this act shall take effect and be in force from and after the first day of April, 1859; and it is hereby made the duty of the Secretary of State to transmit a copy of this act to the clerk of said court; and the said clerk is hereby required to cause this act to be published without any necessary [unnecessary] delay, in a public newspaper in said county.

Emergency.

Duty of Secretary of State.

CHAPTER XLI.

AN ACT fixing the times of holding Courts of Common Pleas in the county of Huntington, and prescribing the length of the terms, and providing for the return of process heretofore issued, or that may hereafter issue.

[APPROVED FEBRUARY 9, 1859.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That hereafter courts of common

Time O. P. court in Huntington county.

pleas, in the county of Huntington, shall be held as follows, to wit: On the first Monday in January, March, June and November, and continue as follows: At the January and June terms, one week each; at the March and November terms, two weeks each, if the business shall so long require it.

Contravening
laws repealed.

SEC. 2. All acts and laws in contravention hereof are hereby repealed.

Return of writs,
etc.

SEC. 3. All writs and subpoenas, venires, rules, orders of court, recognizances, publications and process whatever, which may have been issued from said common pleas court, in said county, since the last session thereof, or which may hereafter issue previous to the commencement of said terms, shall be taken to be and are hereby made returnable to the first day of the first term of said court, to be holden in virtue of this act.

Emergency and
duty of Secretary
of State.

SEC. 4. Because of said court commencing before publication of the annual laws will be made, it is hereby declared that an emergency exists for the immediate taking effect of this act; it is therefore hereby declared to be in force from and after its passage; and the Secretary of State is hereby required to certify a copy of this act to the clerks of said court of common pleas in said county.

CHAPTER XLII.

AN ACT to fix the time of holding the Court of Common Pleas in the county of Marion, prescribing the length of the terms thereof, and repealing all laws in conflict therewith.

[APPROVED FEBRUARY 10, 1859.]

Length of terms,
etc.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the Court of Common Pleas shall sit in the county of Marion on the second Mondays of February, June, August and December, in each year, and shall hold four weeks at each term, if the business thereof require it.

Return of process,
writs, etc.

SEC. 2. All process made returnable to said court, at the times heretofore fixed for holding the sessions thereof, shall be and the same are hereby declared and made returnable to the terms of said court, as fixed by

this act, and all parties, officers, witnesses and persons, are hereby required to take notice of the changes herein made.

SEC. 3. All acts contravening the provisions of this act are hereby repealed. Parties to take notice.

SEC. 4. Inasmuch as it is necessary that this act should take effect and fix the terms of said courts before the laws of this session will be published in the several counties of this State, an emergency exists for the immediate taking effect of this act, and the same shall be in force from and after its passage. Emergency.

CHAPTER XLIII.

AN ACT to fix the time of holding the Courts of Common Pleas in the counties of Steuben and Dekalb, and to repeal all laws heretofore passed on that subject.

[APPROVED MARCH 5, 1859.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the courts of common pleas in the counties of Steuben and Dekalb, shall be held as follows: In the county of Steuben, the court of common pleas shall be held on the second Monday in January, the last Monday in March, the third Monday in August, and the second Monday in November, of each year; and in the county of Dekalb, the said court shall be held on the third Monday in January, the second Monday in April, the fourth Monday in August, and the third Monday in November, of each year, and the sessions of said court shall continue one week at each term, if the business thereof require it. Times of holding courts in Steuben and Dekalb counties.

SEC. 2. All process made returnable to any of the courts of common pleas of the counties of Steuben and Dekalb, at the time heretofore fixed for holding sessions thereof, shall be and the same are hereby declared and made returnable to the first days of the terms of said courts respectively, as fixed by this act; and all parties, witnesses, and all persons are hereby required to take notice of the change of time of holding said courts, as herein made. Length of terms
Return of process, &c.

Contravening
acts repealed.

SEC. 3. All acts heretofore passed fixing the time of holding courts of common pleas in the counties of Steuben and Dekalb are hereby repealed.

CHAPTER XLIV.

AN ACT to change the time of holding the Common Pleas Courts in St. Joseph, Marshall and Starke counties, and the length of terms therein.

[APPROVED FEBRUARY 23, 1859.]

Times of holding
courts.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the common pleas courts shall be held as follows, to wit: The courts in the county of St. Joseph, on the first Monday of March, June, September and December; in the county of Marshall, on the Mondays succeeding the courts in the county of St. Joseph; and in the county of Starke, on the Mondays succeeding the courts in the county of Marshall. The courts in the county of St. Joseph, if the business thereof require it, shall sit two weeks at each term; and in the counties of Marshall and Starke, one week each at each term, if the business require it.

Length of terms.

Return of pro-
cess.

SEC. 2. All process made returnable to any of the courts of the respective counties aforesaid, at the times heretofore fixed for holding the sessions thereof, shall be and the same are hereby declared and made returnable to the first days of the terms of said courts respectively, as fixed by this act: and all parties, witnesses, and all persons, are hereby respectively required to take notice of the change of time of holding said several courts as herein made.

Parties to take
notice.

Emergency.

SEC. 3. An emergency is hereby declared to exist for the immediate taking effect of this act; wherefore, this act shall take effect and be in force from and after its passage.

CHAPTER XLV.

AN ACT fixing the time of holding the Court of Common Pleas in the county of Wabash, and the length of the terms thereof.

[APPROVED MARCH 5, 1859.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That hereafter the Court of Common Pleas shall sit in the county of Wabash on the first Mondays in January, April and July, and on the second Monday in November, in each year, and shall sit three weeks at each term, if the business require it. Terms of court in Wabash county.

SEC. 2. All laws coming in conflict with this act are hereby repealed. Repealed.

SEC. 3. It is hereby declared that an emergency exists for the taking effect of this act; therefore, the same shall take effect and be in force from and after its passage, until the first day of October, 1860, at which time this act shall cease to have any effect. Emergency and limitation of law.

CHAPTER XLVI.

AN ACT prescribing the time of holding the Courts of Common Pleas in the several counties therein named.

[APPROVED FEBRUARY 28, 1859.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the courts of common pleas in the several counties in this act named shall hold their terms as hereinafter set out: In the county of Gibson, on the second Monday in January, April, July and October, and shall sit two weeks, if the business require it; in the county of Posey, on the fourth Monday in January, April, July and October, and shall sit two weeks, if the business require it; in the county of Vanderburgh, on the third Monday in February, May, August and November, and shall sit four weeks, if the business require it; in the county of Warrick, on the fourth Monday in March, June, September and December, and shall sit two weeks, if the business require it; in the county of Knox, on the first Monday in January, Times of holding courts and length of terms.

Gibson.

Posey.

Vanderburgh.

Warrick.

Knox.

Davies.

Pike.

Martin.

Return of pro
cess.

April, July and October, and shall sit two weeks, if the business require it; in the county of Davies, on the Monday succeeding the court in the county of Knox, and shall sit two weeks, if the business require it; in the county of Pike, on Monday succeeding the court in the county of Davies, and shall sit one week, if the business require it; in the county of Martin, on the Monday succeeding the court in the county of Pike, and shall sit two weeks, if the business require it.

SEC. 2. All process from the said courts shall be returnable to the first day of the terms as fixed in this act.

CHAPTER XLVII.

AN ACT to fix the times of holding the Common Pleas Courts in the several counties of this State, the duration of the terms thereof, and making all process from the present Common Pleas Courts returnable to such terms, and declaring when this act shall take effect, and repealing all laws inconsistent therewith.

[APPROVED MARCH 5, 1859.]

Times of holding
courts.

Be it enacted by the General Assembly of the State of Indiana, That the courts of common pleas shall hold their terms in the several counties of this State, as set out in the following sections in this act:

Vanderburgh.

Gibson.

Warrick.

Posey.

Length of terms.

SECTION 1. In the county of Vanderburgh, on the first Mondays in January, May and September, in each year; in the county of Gibson, on the Mondays succeeding the courts in the county of Vanderburgh; in the county of Warrick, on the Mondays succeeding the courts in the county of Gibson; in the county of Posey, on the Mondays succeeding the courts in the county of Warrick. The terms in Vanderburgh shall be four weeks, and in the counties of Gibson, Warrick and Posey, two weeks each.

Knox.

Davies.

Pike.

Martin.

SEC. 2. In the county of Knox, on the first Mondays in January, May and October; in the county of Davies, on the third Mondays in January, May and October; in the county of Pike, on the first Mondays in February, June and November; and in the county of Martin, on the second Mondays in April, July and

November; and the courts in each of said counties shall sit at each term thereof two weeks, if the business thereof require it. Length of terms.

SEC. 3. In the county of Dubois, on the first Mondays of January, May and October; in the county of Spencer, on the Mondays succeeding the courts in the county of Dubois; in the county of Perry, on the Mondays succeeding the courts in the county of Spencer; in the county of Crawford, on the Mondays succeeding the courts in the county of Perry; in the county of Orange, on the Mondays succeeding the courts in the county of Crawford; and the courts shall sit at each term one week, if the business thereof require it, except in the county of Orange, where the courts may sit two weeks, if the business shall require it. Dubois.
Spencer.
Perry.
Crawford.
Orange.
Length of terms.

SEC. 4. In the county of Washington, on the first Mondays of January, May and September; in the county of Clark, on the third Mondays of January, May and September; in the county of Scott, on the first Mondays of February, June and October; in the county of Harrison, on the second Mondays of February and June, and the fourth Monday of October; and in the county of Floyd, on the Fourth Mondays of February, June and November; and the terms thereof, if the business require it, shall be in Scott, one week; in Clark, Washington and Harrison, two weeks each, and in Floyd three weeks. Washington.
Clark.
Scott.
Harrison.
Floyd.
Length of terms.

SEC. 5. In the county of Ohio, on the first Monday of January, May and September; in the county of Dearborn, on the third Mondays in January, May and September; in the county of Ripley, on the first Mondays of February, June and October; in the county of Switzerland, on the third Mondays of February, June and October; and in the county of Jefferson, on the first Mondays in March, July and November; and the terms of said courts shall, if the business require it, be, in Jefferson county, three weeks, and in Ohio, Dearborn, Ripley and Switzerland counties, each two weeks. Ohio.
Dearborn.
Ripley.
Switzerland.
Jefferson.
Length of terms.

SEC. 6. In the county of Franklin, on the first Mondays of March, July and November; in the county of Union, on the fourth Mondays in March, July and November; in the county of Fayette, on the second Mondays of April, August and December; and in the county of Wayne, on the second Mondays in January, May and September; and the terms of said court shall, if the business require it, be in Franklin county three Franklin.
Union.
Fayette.
Wayne.
Length of terms.

weeks; in Fayette and Union counties, each two weeks; and at the May and September terms, in Wayne county, five weeks, and the January term three weeks.

Jennings. SEC. 7. In the county of Jennings, on the first Mondays in February, June and November; in the county of Lawrence, on the first Mondays of January, May and October; in Jackson county, on the second Mondays of January, May and October; and in the county of Bartholomew, on the fourth Mondays of February, June and November; and the court shall sit, at each term in said counties, two weeks, if the business thereof require it.

Morgan. SEC. 8. In the county of Morgan, on the first Mondays in February, June and October; in the county of Johnson, on the third Monday in February, June and October; in Shelby county, on the first Mondays of March, July and November; in the county of Brown, on the third Mondays of March, July and November; and in the county of Monroe, on the first Mondays in April, August and December; and the terms of said court in Morgan, Johnson, Shelby and Monroe, shall continue two weeks, if the business require it, and one week in Brown, if the business require it.

Owen. SEC. 9. In Owen county, on the first Mondays in January, May and September; in Greene county, on the third Mondays in January, May and September; in the county of Putnam, on the Mondays succeeding the courts in the county of Greene; in the county of Clay, on the Mondays succeeding the courts in the county of Putnam; and the terms of said court, if the business require it, shall be in Owen, Greene and Clay, two weeks each, and in Putnam three weeks.

Sullivan. SEC. 10. In the county of Sullivan, on the first Mondays of December, April and August, and shall sit two weeks if the business require it; in the county of Vigo, on the Mondays succeeding the courts in the county of Sullivan, and shall sit four weeks, if the business require it; in the county of Parke, on the Mondays succeeding the courts in the county of Vigo, and shall sit two weeks, if the business require it.

Hancock. SEC. 11. In the county of Hancock, on the first Mondays in January, May and September; in the county of Madison, on the Mondays succeeding the courts in the county of Hancock; in the county of Henry, on the first Mondays succeeding the courts in the county of Madison; in the county of Rush, on the first Mondays succeeding the courts in the county of Henry; and in

the county of Decatur, on the first Mondays succeeding the courts in the county of Rush; and the terms of said court, in each county, shall be two weeks, if the business thereof require it.

SEC. 12. In the county of Boone, on the first Mondays of January, May and September; in the county of Hendricks, on the third Mondays of January and May, and on the fourth Mondays in September; and in the county of Marion, on the first Mondays of February, June and October. The terms of said court, if the business require it, shall be in the counties of Boone and Hendricks, two weeks, and in the county of Marion six weeks, if the business require it.

SEC. 13. In the county of Vermillion, on the first Mondays of January, May and September; in the county of Fountain, on the Mondays succeeding the courts in the county of Vermillion; in the county of Montgomery, on the Mondays succeeding the courts in the county of Fountain; in the county of Warren, on the Mondays succeeding the courts in the county of Montgomery, and shall sit in the counties of Vermillion, Fountain and Warren, two weeks each, and in the county of Montgomery three weeks, if the business require it.

SEC. 14. In the county of Hamilton, on the first Mondays in January, May and August; in the county of Tipton, on the third Mondays in January, May and September; in the county of Howard, on the first Mondays in February, June and October; in the county of Clinton, on the third Mondays of February, June and October; and in the county of Grant, on the second Mondays of March, July and November; and the courts shall sit, at each term in each of said counties, if the business thereof require it, two weeks.

SEC. 15. In the county of Benton, on the first Mondays of January, May and September; in the county of White, on the second Mondays of January, May and September; in the county of Carroll, on the fourth Mondays of January, May and September, and in the county of Tippecanoe, on the third Mondays of March, June and December; said courts shall, if the business require it, sit in Benton one week, White two, Carroll three, at each term, and in Tippecanoe while the business shall require it.

SEC. 16. In the county of Lake, on the first Mondays of January, May and September, of each year; in the county of Porter, on the Mondays succeeding the courts in the county of Lake; in the county of Starke,

Pulaski. on the Mondays succeeding the courts in the county of Porter; in the county of Pulaski, on the Mondays succeeding the courts in the county of Starke; in the county of Jasper, on the Mondays succeeding the courts in the county of Pulaski; and the terms of said court shall be, if the business require it, two weeks in Porter and Jasper, and one week each in the other counties.

Elkhart. SEC. 17. In the county of Elkhart, on the first Mondays of January, May and September; in the county of St. Joseph, on the Mondays succeeding the courts in the county of Elkhart; in the county of Marshall, on the Monday succeeding the courts in the county of St. Joseph; in the county of Laporte, on the Monday succeeding the courts in the county of Marshall; and the terms of said courts in Elkhart and St. Joseph shall be two weeks in each, and in the county of Marshall one week, and in the county of Laporte three weeks, if the business shall require it.

Blackford. SEC. 18. In the county of Blackford, on the third Mondays of January, May and September; in the county of Delaware, on the first Mondays of February, June and October; in the county of Randolph, on the third Mondays of February and June, and the four Monday of October; and in the county of Jay, on the Mondays succeeding the courts in the county of Randolph. The court shall sit in the counties of Randolph and Delaware two weeks each, and in the counties of Blackford and Jay one week each, if the business require it.

Lagrange. SEC. 19. In the county of Lagrange, on the third Mondays of April, August and December; in the county of Steuben, on the first Mondays in January, May and September; in the county of Dekalb, on the third Mondays of January, May and September; in the county of Noble, on the first Mondays in February, June and October; and in the county of Whitley, on the third Mondays of February, June and October; and the terms of said court in said counties shall be two weeks each, if the business require it.

Adams. SEC. 20. In the county of Adams, on the first Mondays of January, May and September, each year, and shall continue in session one week at each term, if the business require it; in the county of Wells, on the Mondays succeeding the courts in the county of Adams, and shall continue in session two weeks at each term, if the business require it; in the county of Huntington, on the Mondays succeeding the courts in the county of Wells, and shall sit two weeks at each term, if the busi-

ness require it; in the county of Allen, on the Mondays succeeding the courts in the county of Huntington, and continue in session four weeks at each term thereof, if the business require it. Allen.
Length of terms.

SEC. 21. In the county of Wabash, on the first Mondays of February, June and November; in the county of Miami, on the first Mondays of March and July, and the fourth Monday of November; in the county of Cass, on the fourth Mondays of March and July, and the third Mondays of December; in the county of Fulton, on the third Mondays of April and the second Mondays of August and January; and in the county of Kosciusko, on the first Mondays in May and September, and the fourth Mondays in January; and the terms of said courts, if the business thereof require it, shall be held in Wabash, Cass and Miami, each three weeks, in Kosciusko two weeks, and in Fulton one week, if the business require it. Wabash.
Miami.
Cass.
Fulton.
Kosciusko.
Length of terms.

SEC. 22. All writs, subpoenas, venires, rules, orders of court, recognizances, publications and process whatever, which may have issued from any of the common pleas courts in said counties, shall be deemed and taken to be, and are hereby made returnable on the first day of the first terms to be holden in virtue of this act. Return of process
etc.

SEC. 23. This act to take effect and be in force from and after the first day of October, 1860, and that all laws inconsistent with this act shall thereafter be repealed. To take effect 1st
October, 1860.

CHAPTER XLVIII.

AN ACT to amend section forty-two of an act entitled "an act to establish courts of common pleas, and defining the jurisdiction and duties of, and providing compensation for the judges thereof," approved May 14th, 1853, so as to regulate the docketing and disposal of the business thereof.

[APPROVED MARCH 5, 1859.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That section forty-two of an act entitled "an act to establish courts of common pleas, and defining the jurisdiction and duties of, and provid- Sec. 42 amended.

ing for the compensation of the judges thereof," approved May 14th, 1858, which is in the following words, to-wit:

Sec 42 amended. "Sec. 42. The business before said court shall be docketed and disposed of in the following order, to-wit:

First. The criminal business;

Second. The business connected with the administration and settlement of estates, and the probate of wills and guardianship;

Third. Other business in said court," be, and the same is hereby amended to read as follows, to-wit:

How amended. SEC. 42. The business before said courts shall be docketed and disposed of in the following order, to-wit:

Order of business. *First.* The first and second days of each term of said court shall be set apart for the disposal of business connected with the administration and settlement of estates, the probate of wills and guardianship, and making up issues in civil cases, and the trial of causes where the intervention of a jury is waived;

Second. The criminal business;

Third. Other business in said court.

CHAPTER XLIX.

AN ACT to provide for the return of the jury in the common pleas court at the third day of the term.

[APPROVED MARCH 5, 1859.]

Juries in common
pleas courts to
come on 3d days.
Venires returna-
ble same day.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the jury for the common pleas court shall come on the third day of the term. The veniers for the same shall be made returnable on that day.

CHAPTER L.

AN ACT to authorize circuit courts and courts of common pleas to empannel traverse juries from the bystanders, in all cases when the officers required by law to empannel juries have failed or refused to discharge that duty.

[APPROVED FEBRUARY 18, 1859.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That circuit courts and courts of common pleas in all cases when the proper officers have failed or refused to draw and empannel a traverse jury, or for any other cause whatever, no traverse jury shall be present at any term of the court, it shall be lawful, and is hereby made the duty of court, if the business thereof require it, to order the sheriff to summon a jury from the bystanders or citizens of the county, which said jury when so empaneled shall be and constitute the regular pannel for such term at which they may have been so selected. Summoning of traverse juries in certain cases.

SEC. 2. There being no law now in force authorizing courts to empannel juries, it is hereby declared that an emergency exists for the immediate taking effect of this act; it is therefore declared that this act shall take effect and be in force from and after its passage. Emergency.

CHAPTER LI.

AN ACT to amend the third section of an act entitled "an act to establish court of common pleas, and defining the jurisdiction and duties of, and providing compensation for the judges thereof," and repealing sections 29 and 38 of said act.

[PASSED MARCH 1, 1859.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That section three of an act entitled "an act to establish courts of common pleas, and defining the jurisdiction and duties of, and providing Sec. 3 of an act amended.

compensation for the judges thereof," approved May 14, 1852, which reads as follows, viz :

"Sec. 3. For the purpose of electing judges for the court of common pleas, the State shall be divided into districts as follows: Posey and Gibson counties shall be a district; Warrick and Vanderburgh, a district; Spencer, Perry and Dubois, a district; Pike, Knox, Daviess and Martin, a district; Crawford, Orange, Washington and Harrison, a district; Floyd, a district; Clark and Scott, a district; Jefferson, a district; Switzerland and Ohio, a district; Dearborn and Ripley, a district; Jennings, a district; Bartholomew, a district; Jackson and Lawrence, a district; Clay, Owen, Greene and Sullivan, a district; Monroe, Brown and Morgan, a district; Johnson, a district; Vigo, a district; Shelby, a district; Decatur and Rush, a district; Franklin, Fayette and Union, a district; Wayne, a district; Henry, a district; Madison and Hancock, a district; Marion, a district; Hendricks and Putnam, a district; Parke and Vermillion, a district; Fountain, a district; Boone and Montgomery, a district; Tippecanoe and White, a district; Carroll and Clinton, a district; Hamilton, Tipton and Howard, a district; Delaware, Blackford and Grant, a district; Jay and Randolph, a district; Huntington and Wells, a district; Wabash and Kosciusko, a district; Miami and Cass, a district; Warren, Benton and Jasper, a district; Pulaski and Fulton, a district; Noble and Whitley, a district; Adams and Allen, a district; Dekalb and Steuben, a district; Lagrange and Elkhart, a district; Laporte, Porter and Lake, a district, and St. Joseph, Marshall and Starke, a district, in each of which districts a judge of common pleas shall be elected as foresaid," be amended to read as follows :

How amended.

SEC. 3. For the purpose of electing judges for the court of common pleas, the State shall be divided into districts as follows: Posey, Vanderburgh, Warrick and Gibson counties shall be a district; Knox, Daviess, Pike and Martin, a district; Spencer, Perry, Dubois, Crawford and Orange, a district; Harrison, Floyd, Washington, Clark and Scott, a district; Jefferson, Switzerland, Ohio, Ripley and Dearborn, a district; Franklin, Fayette, Union and Wayne, a district; Jackson, Jennings, Bartholomew and Lawrence, a district; Morgan, Johnson, Shelby, Monroe and Brown, a district; Greene, Clay, Owen and Putnam, a district; Vigo, Parke and Sullivan, a district; Rush, Henry, Hancock, Madison and Decatur, a district; Marion, Hendricks and Boone, a district; Montgomery, Vermillion, Fountain and Warren, a district; Hamilton, Tipton, Clinton, Howard and Grant, a district; Tippecanoe, Benton, White and Carroll, a district; Lake, Porter, Jasper, Starke and Pulaski, a district; Laporte, Marshall, St. Joseph and Elkhart, a district; Randolph, Delaware, Jay and Blackford, a district; Lagrange, Steuben, Dekalb, Noble and Whitley, a district; Allen, Adams, Huntington and Wells, a district; Cass, Miami, Fulton, Kosciusko and Wabash, a district; in each of which districts there shall be elected a com-

Judges to be elected.

mon pleas judge, on the second Tuesday of October, A. D., 1860, and every fourth year thereafter.

SEC. 2. The annual salary of the judges of the court of common pleas shall be one thousand dollars. Salary of judges.

SEC. 3. The court of common pleas shall set at the court house of the proper county, and shall hold three terms a year, beginning with the first Monday in January, annually, and then on the first Monday of every fourth month thereafter: *Provided*, That if the circuit of said county shall be in session at the time, the common pleas shall be held on the Monday succeeding the time of the circuit court. To be three terms each year. Provide, to give way to circuit court.

SEC. 4. Sections twenty-nine and thirty-eight of an act entitled "an act to establish courts of common pleas, and defining the jurisdiction and duties of, and providing compensation for the judges thereof," be, and the same is hereby repealed. Sec. 29 repealed.

SEC. 5. Nothing in this act shall be so construed as to prevent the judges now acting from serving as such in the districts in which they were elected respectively; nor shall section two, three and four of this act take effect and be in force until the judges elected at said October election in 1860 shall be commissioned and qualified. Judges now acting to serve in districts elected. Sections 2, 3 and 4 to take effect October, 1860.

CHAPTER LII.

AN ACT to amend section eleven of an act entitled "An act to establish Courts of Common Pleas, and defining the jurisdiction and duties of, and providing compensation for the Judges thereof," approved May 14, 1852, so as to extend the jurisdiction of said Court in certain cases.

[APPROVED MARCH 5, 1859.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That section eleven of an act entitled "An act to establish courts of common pleas, and defining the jurisdiction and duties of, and providing compensation for the judges thereof," approved May 14, 1852, which said section eleven is in the following words: Sec. 11 of common pleas act amended.

"Sec. 11. In all civil cases, except for slander, libel, breach of marriage contract, action on official bond of any State or county officer, or where the title to real estate shall be in issue, the court of common pleas shall have concurrent jurisdiction with the circuit court, when the sum due or demanded, or the damages claimed shall not exceed one thousand dollars, exclusive of interest and costs, and concurrent jurisdiction with justices of the peace, in all cases where the sum due or demanded is not less than fifty dollars," be and the same is hereby amended to read as follows:

Common pleas court to have concurrent jurisdiction with justices of the peace and circuit court, in certain cases.

Issue on title to real estate transferred to circuit court.

Payment of costs.

To have original jurisdiction of felonies.

Before indictment by grand jury.

When defendant on bail.

When reversed by Supreme Court.

In all civil cases, except for slander, libel, breach of marriage contract, and when the title to real estate shall be put in issue as hereinafter provided, the court of common pleas shall have concurrent jurisdiction with the circuit court, and concurrent jurisdiction with justices of the peace, in all cases except as otherwise expressly provided, and subject to the law in relation to payment of costs. When it appears upon the face of the complaint or by other legitimate pleadings verified by affidavit, that the title to real estate is in issue in the common pleas court of any county, the cause, with the papers, and a transcript of the entries of record shall be transferred to the circuit court of the same county, and there stand for trial at the first term after the transfer, as if originally commenced therein. If the cause of transfer appear in the complaint, the plaintiff shall pay all costs in the common pleas, except the summons and its service. The decision of the common pleas ordering the transfer, shall be final, but the circuit court may tax all costs made in the former court, except the summons, and its service to the party procuring such transfer without sufficient cause.

SEC. 2. The court of common pleas in the several counties of this State, shall have original jurisdiction of felonies not punishable with death, concurrent with the circuit court in the following cases:

First. When a person is in custody on a charge of felony before indictment by the grand jury.

Second. When the person charged is on bail, and before indictment, voluntarily, in person, or in writing, submits to the jurisdiction of the court, which submission he cannot withdraw.

Third. When a cause is reversed by the Supreme Court on account of defects in the indictment, and the defendant is in custody, and the proper circuit court not in session, in these cases the defendant shall be tried without the intervention of a grand jury, on complaint in the manner provided by laws for the trial of misdemeanors.

Fourth. When a defendant is remanded by the Supreme Court for further trial, for error other than defect in the indictment, and is in custody, and the proper circuit court is not in session at the time. When defendant remanded by Supreme Court.

Fifth. Said court shall also have full power to try any criminal charge in change of venue from the circuit court, when the party is in custody, or voluntarily submits to the jurisdiction as aforesaid, the court shall appoint an early day for trial, either in term or vacation. In all cases contemplated by this section, the common pleas shall have the powers and incidents of the circuit court. In change of venue.

SEC. 3. It is hereby declared that an emergency exists for the immediate taking effect of this act; it is therefore declared that the same shall be in force and take effect from and after its passage. Emergency.

CHAPTER LIII.

AN ACT to provide for the transfer from Justices of the Peace to the Circuit Courts or Courts of Common Pleas, of certain causes therein named.

[APPROVED MARCH 4, 1859.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That when any suit is commenced before a justice of the peace, and an attachment is also issued by said justice in the same action against the property of the defendant, any person who shall have a claim against said defendant of a larger amount than the jurisdiction given to justices of the peace, such person may file the same with the justice of the peace under the attachment, and if any such claim is filed, the justice of the peace shall immediately certify the cause, with all the papers belonging to the same, to the circuit or common pleas court of the county wherein said suit was commenced, and the clerk of said court to which the cause is certified, shall docket the same, and the said court shall proceed with such cause in the same manner as if it had been commenced in said court. Transfer of causes from justices to common pleas or circuit court.

SEC. 2. If any person shall file a claim before the justice of the peace, as stated in the preceding section, How done. Party transferring, on failure to

recover, liable
for costs.

and shall, on the trial in the circuit court or court of common pleas, fail to establish his claim to an amount sufficient to entitle him to recover costs in such court according to the provisions of law now in force, then, and in that event, he may recover judgment for his claim, if proved, but shall pay all costs that accrue in consequence of such transfer; but if he shall recover judgment to an amount sufficient to entitle him to recover costs, then, and in that event, the attachment defendant shall pay all costs to each attachment plaintiff that shall recover judgment.

CHAPTER LIV.

AN ACT to prevent the gathering of cranberries from any of the Public, State and non-resident Lands of this State, and providing penalties therefor.

[APPROVED MARCH 3, 1859.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That any person who shall gather cranberries from any of the public, State or non-resident lands of this State, between the first day of May, and the fifteenth day of September of any year, shall be deemed guilty of a misdemeanor, and on conviction thereof, in a court of competent jurisdiction, shall be fined in any sum not exceeding twenty-five dollars for each offence: *Provided, however*, that nothing herein contained shall be so construed as to prevent any person from gathering cranberries at any time on lands of which he is the owner: *Be it further provided*, That it shall be sufficient in the prosecutions for violations of this act to prove that the lands are reputed in the neighborhood where it lies, to be public, State or non-resident lands.

Proviso.

CHAPTER LV.

AN ACT to provide for taking the sense of the qualified voters of this State, on calling a Convention to alter, amend or revise the Constitution of this State.

[APPROVED MARCH 5, 1859.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That it shall be the duty of the inspectors and judges of elections in the several townships in each county of this State, at the annual election in October next, to open a poll, in which shall be entered all the votes given for or against the calling of a convention to alter, revise or amend the Constitution of this State.

Poll to be opened next Oct. for receiving votes for or against new Constitution.

SEC. 2. Every qualified voter in this State may, if he chooses, at the annual election in October next, vote for or against the calling of a convention for the purpose mentioned in the first section of this act.

Privilege of each voter.

To vote viva voce

SEC. 3. The inspectors of elections at the several places of voting, shall propose to each voter presenting a ballot, the question, "are you in favor of a convention to amend the Constitution?" and those who are in favor of such a convention shall answer in the affirmative, and those who are against such convention shall answer in the negative, which answer shall be recorded by the clerks of such election, and the auditors of the several counties shall furnish a poll book, with proper columns, for that purpose.

SEC. 4. It is hereby made the duty of inspectors and judges of election, to certify the number of votes given for or against a convention, to the clerks of the circuit courts respectively in the same way and manner, and under the same restrictions and penalties that votes for State and county officers are given and certified.

Votes to be certified to clerks.

SEC. 5. It shall be the duty of the clerks of the circuit courts throughout the State, to certify and make returns of all the votes given for or against a convention, and also all the votes that were given at such an election, to the Secretary of State, in the same way and manner that votes for Governor and Lieutenant Governor are required by law to be certified. It shall be the duty of the Secretary of State to lay before the Governor, all the returns by him received, pursuant to the provisions of this act.

Clerks to certify to Sec. of State. Sec. of State to lay returns before Governor. Sheriff to give notice of such poll.

SEC. 6. It shall be the duty of the several sheriffs in this State, to give six weeks' notice in a newspaper, if one is published in his county, if not, then by written notices in each township of his county, that there will be a poll opened for the purpose specified in this act.

If majority in favor of new constitution, Governor to issue proclamation of such vote.

SEC. 7. If a majority of the people voting at said election shall vote in the affirmative, it shall be the duty of the Governor to make proclamation of such vote, and in that case there shall be elected delegates to a convention, at the time and in the manner hereinafter provided.

Delegates to be selected.

SEC. 8. If a majority of the people voting at said election in October next, shall vote in the affirmative, and proclamation of such vote being made as specified in the seventh section of this act, the citizens of this State, qualified by law to vote for members of the General Assembly, shall meet at their respective places of holding elections in the several counties of this State, on the first Monday of April, A. D., 1860, and proceed to elect delegates to constitute a convention, for the purpose of considering the Constitution of this State, and making such amendments to, alterations of, and changes in the same, as they may deem proper; which amendments shall afterwards be submitted to a vote of the people of this State, to be by them ratified or rejected.

Number of delegates 100.

SEC. 9. Said convention shall consist of one hundred delegates, who shall be, and are hereby apportioned among the several counties of said State, as the members of the House of Representatives of the present General Assembly are apportioned. Said delegates shall be elected in the same manner as the General Assembly, and the election of said delegates shall be returned and certified in the same manner as required by law for electing members of the General Assembly.

Elections to be as for members of the Gen. Assembly.

SEC. 10. Said election, when not otherwise provided for in this act, shall be conducted and the poll books kept in the manner prescribed by law for the election of the members of the General Assembly, and the several provisions of the statute in relation to illegal voting and false swearing, shall govern the election under this act.

Contested seats.

SEC. 11. In case of contested or disputed elections of delegates to said convention, the contesting candidate, or other person contesting said election, shall pursue the same course, and be governed in all things by the same rules and regulations, as are now provided by

law in cases of disputed or contested elections of members of the General Assembly of this State.

SEC. 12. The delegates who shall be elected as aforesaid, shall assemble in convention at the capitol, in the city of Indianapolis, on the second Tuesday of May, A. D., 1860, and organize by electing a president, and all other officers necessary. It shall be the duty of the Secretary of State to attend the said convention on the opening thereof, to call over the lists of districts and counties, receive the credentials of the delegates, and generally to perform the like duties in the organization of the same, that are usually discharged by the officer whose duty it is by law to attend to the organization of the House of Representatives of this State, at the commencement of its session; and should the Secretary of State fail to attend in person or by deputy, at 10 o'clock A. M., of the same day, then it shall be the duty of the Auditor of this State to attend for such purpose; and it shall be the duty of the State Librarian to prepare the Hall of the House of Representatives for the reception and sittings of said convention.

Convention to convene May, '60

Duty of Sec. of State.

Librarian to prepare Hall of Rep.

SEC. 13. The said delegates, before entering upon the discharge of their duties, shall each be duly sworn or affirmed to support the Constitution of the United States, and also faithfully, and to the best of their respective abilities, to perform the duties of their office; which oath, or affirmation, may be administered to them by any judge of the Supreme or judge of the circuit courts of this State; and should no such judge be in attendance at the opening of the sitting of said convention, then by any officer of the county of Marion, duly authorized by the laws of this State to administer oaths or affirmations.

Delegates to be sworn.

SEC. 14. The members of said convention shall enjoy the same privileges, in going to, attending upon, and returning from said convention, that members elected to, and attending on the General Assembly are entitled to by law. Said convention shall be the judge of the elections, returns and qualifications of its own members; it shall possess the same power to adopt rules, expel a member for disorderly conduct, and punish contempt, that is now exercised by either House of the General Assembly in a similar case. A majority of the members shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and take measures to compel the attendance of absent members. And the president, members and secretaries of

To enjoy privileges of members of Legislature

To be judges of claimants seats.

To have power to adopt rules, and other powers and duties.

GENERAL LAWS.

the convention, shall be allowed the use of the books of the State Library in the same manner, and upon the same conditions that the members of the General Assembly are allowed the use thereof.

In case of death of any delegate, Governor to issue writ of election.

SEC. 15. In case of the death or resignation of any member of said convention, the Governor of this State shall issue a writ of election, directed to the sheriff or sheriffs of the proper counties, directing a special election to be held to fill such vacancy, in the same manner now prescribed by law for supplying vacancies in the General Assembly of this State. The members of said convention shall receive three dollars per day while actually attending upon the sittings of said convention, and shall be allowed the like compensation for their travel as members of the General Assembly are allowed by law; and their secretaries, officers and attendants shall be paid the same compensation as the officers of the General Assembly of the State are paid for similar services; which pay, together with the other expenses of the convention, shall be certified by the President of the convention, and shall be paid by the Treasurer of this State, on the warrant of the Auditor of public accounts.

Compensation of delegates.

Pay of secretaries etc.; how certified to.

State officers to furnish information and stationery to delegates.

SEC. 16. The Secretary of State, and all other officers in this State, shall furnish said convention with all such papers, statements, statistical information, copies of records or public documents in their possession, as the said convention may order or require; and it shall be the duty of the proper officer or officers, to furnish the members with all such stationery as is used for the General Assembly while in session, which shall be paid for on the certificate of the president, in like manner as the contingent expenses of the House of Representatives are now paid by law.

Original roll of Constitution to be filed in Sec. of State's office.

SEC. 17. The roll containing the draught of the amended Constitution adopted by said convention, and the proceedings of said convention shall be deposited by the president and secretary thereof, in the office of the Secretary of State, who shall file the same, and cause said Constitution to be entered on record in his office; and said convention may submit one or more of the amendments which they may propose to the Constitution, as distinct propositions, to be voted upon by the people separately or together, as to them may seem expedient.

May be submitted to the people either together or in portions.

Sec. of State to certify copy to Gov.

SEC. 18. It shall be the duty of the Secretary of State so soon as the same is recorded in his office, to

deliver to the Governor of this State a certified copy of said amended Constitution, who shall, on the meeting of the General Assembly of this State at its next session, lay the same before them; and it shall be the duty of the said General Assembly to pass all laws necessary and proper for submitting the same to the qualified voters for their approval or rejection; and also for organizing the government under the amended Constitution, in case the same should be adopted and ratified by such voters.

Gov. to present it to Legislature, which shall pass laws regulating submission of Constitution to people.

SEC. 19. It shall be the duty of the Secretary of State to cause immediately, three thousand copies of this act to be printed, and forthwith forwarded by mail, not less than twenty, nor more than thirty copies thereof, to the clerk of each of the counties in this State, who shall cause the sheriff of the county to deliver one or more of said copies to each inspector of elections in said county, and said clerk shall certify to the sheriff that the delegates are to be elected, and the said sheriff shall give notice of such election in the same manner now provided by law in regard to the election of members of the General Assembly of this State.

Sec. of State to have 3,000 copies printed; to forward to clerk of counties.

SEC. 20. It shall be the duty of the Secretary of State to prepare and have printed, blank forms of the caption of the poll books, and the returns required of the inspector and judges of elections; the certificates required by the county canvassers, clerks and sheriffs, and all the forms required by this act, and which may be necessary and proper to carry the same into full effect, which shall be added by way of appendix to this act; and it shall be the duty of the clerk in each county to cause a suitable number of blank forms of poll books, with proper captions and forms of the returns required to be made by the inspectors and judges of the election, to be made out, conforming them to those prescribed by the Secretary of State, and deliver them to the sheriff of said county, and said sheriff shall, at least twenty days previous to the election, deliver one or more copies thereof to each inspector of elections in the several townships in the county.

Sec. of State to furnish blank poll books, forms, etc.

Clerks to furnish inspectors blanks etc.

SEC. 21. It is hereby declared that an emergency exists for the immediate taking effect of this act; therefore, this act shall take effect and be in force from and after its passage and publication in the Indiana State Journal and Indiana State Sentinel.

Emergency.

NOTE.—Published in Sentinel, March 14, in Journal, March 17, 1859.

CHAPTER LVI.

AN ACT to authorize the holders of unauthorized paper currency to sue for, and recover from persons, company, corporation or association, who have issued the same as for money had and received, without making previous holders parties to the suits, and making such currency evidence of the indebtedness.

[APPROVED MARCH 4, 1859.]

Holders of unauthorized money
liable to holders.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That whenever any person or persons, company, corporation or association, may have heretofore issued, or caused to be issued, directly or indirectly, or may hereafter issue or cause to be issued, directly or indirectly, any printed or written note or notes, instrument or instruments in the semblance of bank notes, payable to order or bearer, without authority of law, the holder of such note or notes, instrument or instruments, may bring an action against such person or persons, in any court of law in this State having jurisdiction of the amount, for money had and received, without making any previous holder thereof party to such action, and such note or notes, instrument or instruments, shall be evidence in such action of an indebtedness for money had and received from such person or persons to such holder, to the amount agreed to be paid upon the face of such note or notes, instrument or instruments, and such court may render judgment therefor.

Evidence of issue.

CHAPTER LVII.

AN ACT to prevent the issuing and circulation of unauthorized paper currency, and prescribing penalties for the issuing or failure to redeem any such currency, and to punish the putting away of broken bank notes, or the notes of banks which have suspended specie payments.

[APPROVED FEBRUARY 15, 1859.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That all bills, bonds, notes, and other paper of any description whatever, save and except that now authorized by law to be issued by the Bank of the State of Indiana, and her branches, and other banks incorporated under the general banking law of this State, either in the form of certificates for deposit of money, bank notes, or currency, or of promises to pay the bearer, or any specific person or persons any sum in money, currency or bank notes, issued by any person or persons, company, firm, association or corporation in this State, for the purpose of being used as a substitute for bank notes, or a circulating medium, shall be deemed fraudulent and absolutely void. Nothing contained in this section shall be construed as giving the right to any of the banks of this State, created under the laws thereof, to issue or put in circulation any other paper than that authorized by the laws under which they were created.

Unauthorized currency to be considered fraudulent and void.

SEC. 2. Any person or persons, or any individual members of any company, association or corporation, other than the banking institutions as in the preceding section specified, who shall upon his own account, or as agent for another, or as agent or officer of any such company, association or corporation, issue or put into circulation any bills, bonds, notes or other paper, either in the form of certificates or receipts for the deposit of money, or of promises to pay the bearer, or any specific person or persons, any sum whatever, for the purpose of being used as a circulating medium or substitute for bank notes, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than fifty dollars nor more than one thousand dollars, to which may be added imprisonment in the county jail for any period of time not exceeding three months.

Issuers guilty of misdemeanor.

Penalty for.

SEC. 3. Any person or persons, or any individual

Failure to redeem a separate offense.

member or members of any firm, company, corporation or association who shall, after the taking effect of this act, have issued and put into circulation, or caused to be issued and put into circulation, any bills, bonds, notes, or other paper such as is specified in the first section of this act, and who shall, upon presentation and demand, fail or refuse to redeem the same, shall as a separate and distinct offense from that mentioned in the second section, be deemed guilty of a misdemeanor, and upon conviction thereof for every failure or refusal, be fined in any sum not less than fifty dollars nor more than five hundred dollars, to which may be added imprisonment in the county jail for any period of time not more than six months.

Penalty for.

Issue to be considered *prima facie* evidence.

SEC. 4. In prosecutions under this act the fact that any such paper as is specified in the first section of this act is in circulation, shall be *prima facie* evidence that the person or persons, company, or corporation, or association, whose name is signed or appears on the same as maker, makers, drawer, drawers, drawee or acceptor thereof issued and put the same in circulation, unless its execution be denied under oath by the defendant.

Not to apply to bills issued according to law.

SEC. 5. Nothing in this act shall be so construed as in any manner to prevent the free circulation of the notes of banks organized in conformity to law, nor to the certificates of deposits or checks issued by any person, firm, company, corporation or association in due course of business.

Penalty for circulating broken bank issues.

SEC. 6. Any person who shall knowingly exchange, barter, sell or put away for a valuable consideration, any bank note or bill drawn on or by any banks of any State, knowing such bank at the time to be broken or to have suspended specie payments, without disclosing such knowledge to the person receiving such bill or note, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in any sum not less than ten nor more than one thousand dollars.

Bank of the State and free banks prohibited from circulating "shin-plasters."

SEC. 7. The Bank of the State of Indiana and its branches, and the banks organized under the general banking law of this State, shall not, nor shall any officer or agent of any such banks, put into circulation any such fraudulent and void paper, or issue as that described in the first section of this act, and any such officer or agent upon conviction thereof, shall be subject to the same penalties as are prescribed in the second section of this act.

CHAPTER LVIII.

AN ACT to amend sections one and two of an act to provide compensation to the owners of animals killed or injured by the cars, locomotives, or other carriages of any railroad company in this State, approved March 1st, 1853, and to provide the manner of the service of process.

[APPROVED MARCH 4, 1859.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That section one of an act entitled "an act to provide compensation to the owners of animals killed or injured by the cars, locomotives, or other carriages of any railroad company in this State," approved March 1st, 1853, which reads as follows:

Sec. 1 of certain act amended.

"That whenever any animal or animals shall be killed or injured by the cars or locomotives, or other carriages used on any railroad in this State, the owner thereof may go before some justice of the peace of the county in which such injury occurred and file his complaint in writing, and such justice shall fix a day to hear said complaint, and shall cause at least ten days notice to be served on the railroad company defendant, by service of summons by copy on any conductor of any train passing through said county," be, and the same is hereby amended so as to read as follows:

That whenever any animal or animals shall be killed or injured by the cars or locomotives, or other carriages used on any railroad in this State, the owner thereof may go before some justice of the peace of the county in which such injury occurred, and file his complaint in writing, and such justice shall fix a day to hear said complaint, and shall cause at least ten days notice to be served on the railroad company defendant, by service of summons by copy on any conductor of any train passing through said county; but in all cases when the value of any animal or animals so killed shall exceed fifty dollars, the owner or owners of any such animal or animals may file his complaint and prosecute his claim before such justice of the peace, in the court of common pleas, or in the circuit court, at his option.

Manner of recovering damages for animals killed on railroads.

Summons to be issued on railroad company, to be served on conductor.

SEC. 2. When such complaint shall be filed in the circuit court or court of common pleas, the clerk of said court shall issue a summons thereon as in other cases, which summons shall be served by the sheriff on the railroad company defendant at least ten days before the first day of the term at which such cause is to be heard,

and said summons may be served by copy on any conductor of any train passing through said county.

Sec. 2 amended. SEC. 3. That section second of said act which reads as follows, to-wit:

"On the hearing of said cause, the justice or jury trying the same shall give judgment for the plaintiff for the value of the animal destroyed or injury inflicted, without regard to the question whether such injury or destruction was the result of wilful misconduct or negligence, or the result of unavoidable accident," shall be so amended as to read as follows:

Jury shall give damages regardless of circumstances.

On the hearing of said cause the court or jury trying the same shall give judgment for the plaintiff for the value of the animal or animals destroyed or injury inflicted, without regard the question whether such injury or destruction was the result of wilful misconduct or negligence, or the result of unavoidable accident.

CHAPTER LIX.

AN ACT to authorize deeds and mortgages heretofore acknowledged before County Auditors to be recorded, and authorizing the same and also the record thereof to be read in evidence, making such record notice to third persons, and making such conveyances valid.

[APPROVED MARCH 5, 1859.]

Preamble.

WHEREAS, It has been represented to this General Assembly that in several counties of this State acknowledgments of deeds and mortgages have been taken by the Auditors of such counties, as clerk of the board of county commissioners therein; AND WHEREAS, it is believed that County Auditors were not by any law authorized to take acknowledgments of deeds and mortgages, and that there is no law authorizing such deeds and mortgages to be recorded, therefore,

Acknowledgments in certain cases legalized.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the recorder of any county where-in deeds and mortgages have been heretofore acknowledged before the auditor of any such county, as clerk of the board of county commissioners, and attested by the seal of said board, and which deeds or mortgages are in all other respects regular, be, and he is hereby

authorized and required, upon request of any person or persons holding any such conveyance, or having any interest therein, to receive and note the filing thereof, and record the same in the proper books of his office, in the same manner as other deeds are recorded.

SEC. 2. Every deed, mortgage or conveyance entitled by this act to be recorded in the county in which the land embraced in such conveyance is situate, and shall be deemed and taken as full notice of all the rights and equities of every person holding any such conveyance, or having any interest therein, to all persons whomsoever subsequent to the filing and recording of the same, according to the provisions of this act, and it is hereby declared that such conveyances when recorded shall have the same force and effect as if the acknowledgment thereto had been taken by officers duly authorized by law to take such acknowledgments.

Deeds so acknowledged to have the same effect as other deeds.

SEC. 3. Every conveyance entitled to be recorded by this act may be read in evidence in any court of justice, without proof of the execution thereof, and the record of any such conveyance, or a transcript thereof, duly certified or proved, may also be read in evidence with the same force and effect as the original.

Conveyance evidence in court.

SEC. 4. No conveyance or instrument in writing by this act authorized to be recorded, nor the record or transcript thereof, shall be conclusive, but may be rebutted, and the force and effect thereof contested by any party effected thereby.

But not conclusive evidence.

SEC. 5. That any conveyance or instrument in writing, acknowledged as hereinbefore stated, which may have been recorded in any county of this State before the passage of this act, and any record or transcript thereof, shall have the same force and effect as if the same was recorded subsequent to the passage thereof.

Deeds acknowledged before passage of this act.

SEC. 6. It is hereby declared that an emergency exists for the immediate taking effect of this act, and the same shall be in force from and after its passage.

Emergency.

CHAPTER LX.

AN ACT to amend the sixth section, and the third clause of the seventh section; and the twelfth, fourteenth, nineteenth and twentieth sections of an act entitled "an act regulating the granting of divorces, nullification of marriages, and decrees and orders of court incident thereto, and to provide for opening up decrees of divorce in certain cases," approved May 13th, 1852.

[APPROVED MARCH 4, 1859.]

Sec. 6 of divorce laws amended.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the sixth section of the above entitled act, which read in the words following, viz:

"Divorces may be decreed by the circuit courts of this State on petition filed by any person at the time a *bona fide* resident of the county in which the same is filed, of which *bona fide* residence the affidavit of such petitioner shall be *prima facie* evidence," be amended to read as follows:

One years residence required of plaintiff.

Divorces may be decreed by the circuit courts of this State on petition filed by any person who, at the time of the filing of such petition, shall have been a *bona fide* resident of the State one year previous to the filing of the same, and a resident of the county at the time of the filing such petition, which *bona fide* residence shall be duly proven by such petitioner to the satisfaction of the court trying the same.

SEC. 2. *Be it further enacted*, That the third clause of section seven of said act, which reads as follows, to-wit:

"Third, Abandonment for one year—or for a less period if the court shall be satisfied that reconciliation is improbable," be so amended as to read as follows:

Abandonment for one year.

Third. Abandonment for one year.

SEC. 3. And that section twelve, which reads as follows, to-wit:

"Sec. 12. The court may proceed to hear and determine such cause whenever such summons shall have been served fourteen days, or such publication made thirty days before the first day of the term," be amended so as read as follows, to-wit:

Summons, how served.

The cause shall stand for issue and trial at the first term of the court after the summons has been personally served upon the defendant ten days, or publication has been made thirty days before the first day of such term.

SEC. 4. And that section fourteep, which reads as Cross petition. follows, to-wit:

"Sec. 14. The defendant may in addition to his or her answer file a cross petition for divorce, and the court shall in such case decree the divorce, if any, in favor of the party legally entitled to the same," be amended to read as follows, to-wit:

In addition to an answer the defendant may file a cross petition for divorce, and when filed the court shall decree the divorce to the party legally entitled to the same. If the original petition be dismissed after the filing of a cross petition, the defendant may proceed to the trial of the cross petition without further notice to the adverse party.

SEC. 5. And that section nineteen, which reads as Alimony. follows, to-wit:

"Sec. 19. The court shall make such other decree for alimony, as the circumstances of the case, the pecuniary condition of the parties, and the amount of the personal property received by the husband from the wife's estate, shall render just and proper," be amended so as to read as follows, to-wit:

The court shall make such decree for alimony in all cases contemplated by this act as the circumstances of the case shall render just and proper.

SEC. 6. And that section twenty, which read as follows, to-wit:

Rights of husband on misconduct of wife.

"Sec. 20. A divorce decreed on account of the misconduct of the wife shall entitle the husband to the same rights, so far as his or her real estate is concerned, as he would have been entitled to have by her death," be amended so as to read as follows, to-wit:

A divorce decreed on account of the misconduct of the wife shall entitle the husband to the same rights, so far as his real estate is concerned, as he would have been entitled to by her death.

SEC. 7. Parties against whom a judgment of divorce has been heretofore or shall be hereafter rendered, without other notice than publication in a newspaper, may have the same opened at any time so far as relates to the care, support, and custody of the children. Parties against whom a judgment of divorce shall hereafter be rendered, without other notice than publication in a newspaper, may at any time within two years after the rendition of such judgment, have the same opened and be allowed to defend, so far as the same relates to the allowance of alimony and the disposition of property. Before any judgment shall be opened as above for any cause, the applicant shall file a statement of the causes

Judgments may be opened in certain cases.

Manner of opening judgment.

relied upon and give such notice thereof as the court in term time, or the judge thereof in vacation, shall require, and when the cause specified by such applicant relates to alimony and the disposition of property, the applicant shall file an affidavit stating that during the pendency of the action, he or she received no actual notice thereof in time to appear in court at the time of the trial of such action, and object to said judgment, and shall also pay such costs as the court may direct. Any property which may have been sold under any such judgment so sought to be opened, and which shall have passed into the hands of a purchaser or purchasers in good faith, shall not be affected by any proceeding consequent upon the opening of such judgment; *Provided*, That the dissolution of the marriage contract shall in no case be set aside under the provisions of this act.

Opening or reversed not to effect dissolution of marriage.

Pending cases not effected, except as in sec. 7.

SEC. 8. Nothing in this act shall be so construed as to affect cases pending at the time of the taking effect of this act, except as provided in the next preceding section.

Emergency.

SEC. 9. Whereas, advantage is daily taken of the existing law by non-resident parties, who are not entitled to a divorce, it is hereby declared that an emergency exists for the immediate taking effect of this act, and the same shall be in force from and after its passage.

CHAPTER LXI.

AN ACT to amend the third section of an act entitled "An act regulating General Elections, and prescribing the duties of Officers in relation thereto," approved June 7, 1852.

[APPROVED MARCH —, 1859.]

Sec. 3 of act amended.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the third section of the above entitled act, which section is in the words following, to wit:

"Sec. 3. The president of the board of township trustees shall, by virtue of his office, be inspector of elections of such township, and the board of county commissioners of the proper county may designate one additional or more places of holding elections in any township, or form precincts of two or more townships when the public convenience requires it," be, and the same is hereby amended to read as follows, to-wit:

Sec. 3. The township trustee shall, by virtue of his office, be inspector of elections of such township, and shall designate the place where elections shall be held in their respective townships, and shall, with the consent of a majority of the legal voters that may be present prior to the opening of the polls at any precinct, appoint two qualified voters of the precinct, who, with himself, shall constitute a board of judges of such election, and such board shall appoint two clerks of said election, and the board of county commissioners of the proper county may designate one additional or more places of holding elections in any township, or form precincts of two or more townships, when the public convenience requires it.

How amended.
Township trustee to be inspector of elections, and may appoint two persons as judge of election.

Clerks election.
May designate one or more places of voting.

SEC. 2. It is hereby declared that an emergency exists for the immediate taking effect of this act; it shall, therefore, be in force from and after its passage and publication in the Indiana State Journal and Indiana State Sentinel.

Emergency.

NOTE—Published in Sentinel March 15, and Journal March 17, 1859.

CHAPTER LXII.

AN ACT declaring the having of carnal knowledge of an insane woman in certain cases to be a felony, and prescribing the punishment therefor.

[APPROVED MARCH 5, 1859.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That if any male person, seventeen years old and upwards, shall have carnal knowledge of any female person, other than his wife, such female person being insane, he knowing her to be such, every person so offending shall be deemed guilty of a felony; and, upon conviction thereof, shall be imprisoned in the State Prison at hard labor, not more than ten, nor less than two years.

Carnal knowledge of insane woman, felony.

Punishment for.

CHAPTER LXIII.

AN ACT authorizing the State Board of Agriculture to cause a Geological Reconnoissance of the State to be made, to make collections and analysis of specimens, and making appropriations therefor.

[APPROVED MARCH 5, 1859.]

Preamble

WHEREAS, The State Board of Agriculture has memorialized the General Assembly for such aid as a full geological survey of the State would give in furtherance of the object for which said Board was organized; AND WHEREAS, The finances of the State are not now in a condition which would justify such an appropriation as would carry out the plan contemplated by the memorialists; AND WHEREAS, It is now believed that the sum of five thousand dollars, granted by the State to said Board, together with such voluntary contributions as might be made to it, would be sufficient to make a geological reconnoissance of the State, and the determination of the general boundaries of its geological formation, and also to make collections and analysis of specimens of minerals, ores, earths and stone, from every portion of the State, and thus prepare the way for a more full and systematic survey to be made hereafter under the direction of the State Executive; Therefore,

\$5,000 appropriated for geological survey.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana, That* the sum of five thousand dollars is hereby appropriated out of the State Treasury, and to be paid on the warrant of the Auditor to the said State Board, for the purpose of making the geological reconnoissance, collections and analysis of specimens of minerals, ores, earths and stones: *Provided*, That one-half of said sum shall not be paid prior to April 15th, 1860, and the other half not before the 15th of October, 1860.

Governor to furnish a room for deposit of specimens, etc.

SEC. 2. The Governor is hereby directed to select a convenient room in the capitol, or in any building that may be erected by the State, if a suitable one can be found, and if not, hire one suitable for the deposit and safe-keeping of such minerals, soils, ores, fossils, maps, sketches, &c., as may be collected and made by direction of said Board, which room shall be placed under the control of said Board.

SEC. 3. The State Board of Agriculture shall, on or before the 15th of December, 1860, make a full report to the Governor, of the expenditures of said appropriation, with full vouchers thereof, and of the results accomplished thereby. The Governor shall have two thousand copies of said report printed for the use of the next General Assembly.

Board of Agriculture to make report to Governor before Dec. 15, 1860.

CHAPTER LXIV.

AN ACT to amend section 15, and to repeal sections 27 to 38, inclusive, of an act entitled "An act to provide for the opening, vacating and change of highways," approved June 17, 1852, so as to give boards of County Commissioners jurisdiction as to the change, laying out and vacating highways in their respective counties, saving and transferring all proceedings now pending before Township Trustees under said sections so repealed, to the Boards of County Commissioners, and providing for the disposition thereof.

[APPROVED MARCH 5, 1859.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That section 15 of an act entitled "An act to provide for the opening, vacating and change of highways," approved June 17, 1852, which is in the following words, to wit:

Sec. 15 amended.

Sec. 15. Whenever twelve freeholders of the county, six of whom shall reside in the immediate neighborhood of the highway proposed to be located, vacated, or of the change to be made, shall petition the board of commissioners of the county in which such highway is situate, for the location, vacation or change of any highway, such location, vacation or change running into more than one township, such board, if they shall be satisfied that notice of such application has been given by publication three weeks successively in a newspaper published in the county, or by posting up notices in three of the most public places in the neighborhood of such highway or change, at least twenty days before the meeting of the board at which such petition is to be presented, shall appoint three persons to view such highway," shall be amended so as to read as follows, to wit:

Sec. 15. Whenever twelve freeholders of the county, six of whom shall reside in the immediate neighborhood of the highways proposed to be located, vacated, or of the change to be made, shall petition the board of commissioners of the county in which such highway is sit-

Petition for view, etc., of highway.

uate, for the location, vacation or change of any highway, such board, if they shall be satisfied that notice of such application has been given by publication three weeks successively in a newspaper published in the county, or by posting up notice in three of the most public places in the neighborhood of such highway or change, at least twenty days before the meeting of the board at which such petition is to be presented, shall appoint three persons to view such highway.

Sections 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, and 38 repealed.

Suits pending before trustees, transferred to Co. board.

SEC. 2. *And be it further enacted,* That sections twenty-seven, twenty-eight, twenty-nine, thirty, thirty-one, thirty-two, thirty-three, thirty-four, thirty-five, thirty-six, thirty-seven and thirty-eight of the same act, be, and they are hereby repealed, saving all suits and proceedings heretofore commenced and now pending under said sections before the various boards of township trustees within this State, and said suits and proceedings are hereby transferred to the boards of commissioners in the various counties where the same are pending, and said boards of commissioners shall have jurisdiction thereof, and in determining said proceedings, shall be governed by said sections so repealed, the same as if they were in force.

CHAPTER LXV.

AN ACT to provide for locating and working highways situated upon county lines.

[APPROVED MARCH 3, 1859.]

Petition in regard to neglected highways on county line.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That whenever six freeholders of a county shall sign and present to the board of county commissioners in session, a petition setting forth that a public highway, (describing it as nearly as possible,) in their vicinity, situated upon a county line, has not been worked for some length of time in consequence of a difficulty as to whose duty it is to work said road.

To county board.

SEC. 2. Upon the presentation of the above petition the county board shall appoint two disinterested persons as commissioners, whose duty shall be to employ

the county surveyor and with him to perform such duties as are enjoined upon them by this act.

SEC. 3. It shall be the duty of the auditor of said county to immediately by letter give notice through the auditor to the other county board upon whose border said road is situated, of the filing of the above petition, giving a copy of the same, and also of the appointment of the above two commissioners, referring to this act as authority for so doing, whereupon it shall be the duty of the county board thus notified, at their first session, to appoint a like two commissioners, and the four persons so appointed may select a fifth person, in case of a disagreement, and shall also fix time when such joint commissioners shall meet, and return notice of their action upon the premises.

Adjoining county board to be notified of petition.

Commissioners to be appointed.

SEC. 4. At the time designated as above the said four commissioners and surveyor shall meet at the north or west end, as the case may be, of such road as described in the petition, who having been first sworn according to law, shall proceed carefully to examine the condition and location of said road, and if practicable shall fix the centre of said road upon the county line; having surveyed the whole line of the road, they shall, as near as possible, make an equal division of it, taking into consideration the amount of labor presumed to be necessary to keep it up, as well as the length thereof, and mark the spot by fixing a stone firmly in the ground, and shall determine which of the respective counties shall each work the respective division thus designated.

Work on road; how divided.

SEC. 5. Said commissioners shall make out and sign a report of the proceedings, describing by metes and bounds the portions of the road to be worked by each county, a copy of which shall be duly transmitted to the board of county commissioners of each of the two counties, and shall be by them entered upon record, and they shall notify the trustees of the township or townships interested, furnishing them a copy of the reports of the joint commissioners, that it is hereby made their duty to open and work said road as other roads in the townships are worked as the law requires; and said joint commissioners shall each receive for their services one dollar and twenty-five cents per day for each day they may have been engaged in performing the duties herein required, and the surveyor his lawful fees, to be paid out of the county treasury of the respective counties.

Commissioners to report to county board.

Township trustees to be notified.

Compensation of commissioners.

CHAPTER LXVI.

AN ACT to provide for laying out and repairing highways upon the line between Indiana and adjoining States.

[APPROVED MARCH 5, 1859.]

Laying off and working of highways on State line.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That highways may be laid out and opened upon the line between this and any adjoining State in the same manner that highways are laid out and opened upon county or township lines within this State, and be repaired by the supervisors of the proper road districts on each side thereof, and by the joint labor of the hands in each State, whenever the laws of such adjoining State shall be applicable.

CHAPTER LXVII

AN ACT to amend the third section of "an act to incorporate the town of Peru," approved February 14th, 1848.

[APPROVED MARCH 5, 1859.]

Sec 3 amended.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That section third of an act entitled "an act to incorporate the town of Peru," approved February 14th, 1848, which is in the following words, to-wit:

"Sec. 3. That the said Mayor and Council of said town, and their successors in office, shall be, and the same are hereby declared to be a body politic and corporate, with perpetual succession, by the name and style of 'the Mayor and Council of the town of Peru,' and by that name and style shall be able and capable, in law and equity, to sue and be sued, plead and be impleaded, answer and be answered unto, defend and be defended in any court of competent jurisdiction, and shall have power to make, use and have a common seal, and the same to break, alter, amend and renew at pleasure; to ordain, order, establish and put into execution and effect such by-laws, rules, regulations and ordinances as they shall deem necessary and proper for the benefit and convenience of the citizens of said incorporated town; and shall, also, have power to adopt and put in force such laws, ordinances, and regulations as they shall deem necessary for the police and good government and order of

said town hereby incorporated; subject, however, to the restrictions, limitations and provisions hereinafter provided, and not inconsistent with the constitution and laws of this State, or of the United States," be, and the same is hereby amended so as to read as follows, to-wit:

SEC. 3. That the said Mayor and Council of said town, and their successors in office, shall be, and the same are hereby declared to be a body politic and corporate, with perpetual succession, by the name and style of "the Mayor and Council of the town of Peru," and by that name and style shall be able and capable in law and equity, to sue and be sued, plead and be impleaded, answer and be answered unto, defend and be defended in any court of competent jurisdiction, and shall have power to make, use and have a common seal, and the same to break, alter, amend and renew at pleasure; to ordain, order, establish and put into execution and effect such by-laws, rules, regulations and ordinances as they shall deem necessary and proper, for the benefit and convenience of the citizens of said incorporated town; to employ a surveyor and engineer for said incorporated town, and also, have power to adopt and put in force such laws, ordinances and regulations as they shall deem necessary for the police and good government and order of said town, subject, however, to the restrictions, limitations and provisions hereinafter provided, and not inconsistent with the constitution and laws of the United States and of this State; *Provided*, That nothing herein contained shall be construed to authorize said Mayor and Council of said incorporated town to employ a surveyor and engineer, until three weeks' public notice in some newspaper published in said town, shall be given of the time, place and manner in which said surveyor and engineer shall be employed; and, *Provided, further*, That said Mayor and Council aforesaid said shall, in all cases, employ the lowest competent bidder as such surveyor and engineer.

Town of Peru incorporated.

Powers and privileges.

May employ surveyor and engineer.

Provided public notice be given—

And the lowest bidder be employed.

SEC. 2. Whereas, there is no law now in force requiring the Mayor and Council of said town to let the office of surveyor to the lowest bidder, it is declared that an emergency exists for the immediate taking effect of this act; it shall, therefore, be in full force and effect from and after its passage; and it is hereby made the duty of the Secretary of State to transmit a copy of the same to the Mayor of said town.

Emergency.

CHAPTER LXVIII.

AN ACT to authorize the Board of Commissioners of the several counties of this State to make such an allowance out of the county treasury of their respective counties as will indemnify the owners of property for losses sustained by taking, carrying away or destruction of such property by any officer, under and by virtue of the provisions of an act entitled "an act to prohibit the manufacture and sale of spirituous and intoxicating liquors, except in the cases therein named, and to repeal all former acts inconsistent therewith, and for the suppression of intemperance," approved February 16th, 1855, and reimburse the officers named in said act, who in good faith have executed the provisions thereof, and been subjected to loss thereby, and authorizing an allowance to officers who have paid costs in cases of habeas corpus under said act.

[APPROVED MARCH 3, 1859.]

Board of commissioners to allow persons whose property destroyed under prohibitory law of 1855.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the board of commissioners of the several counties be, and they are hereby authorized to make an allowance out of the county treasury to any party whose property shall have been seized, destroyed or sold by any officer in their respective counties, under and by virtue of any process sued out to enforce the provisions of an act entitled "an act to prohibit the manufacture and sale of spirituous and intoxicating liquors, except in the cases therein named, and to repeal all former acts inconsistent therewith, and for the suppression of intemperance," approved February 16th, 1855, or where such property shall have been seized or carried away by any officer in conformity with the provisions of said act; *Provided, however*, That no such allowance shall be made where the injured party shall have received remuneration for the injury done from such officer; and, *Provided, further*, That the acceptance of such allowance shall bar and preclude any redress against such officer for the seizure or destruction of such property; *Provided, further*, That no allowance shall be made where the case has been barred by the statute of limitations, nor unless there is a clear liability on the part of the officer.

Provided no indemnity has been made.

Action against officer barred.

Statute of limitations.

Officers having indemnified persons to be remunerated.

SEC. 2. Whenever suit shall have been heretofore instituted and prosecuted to final judgment against any officer by the owner of property which has been seized or destroyed under the provisions of the above mentioned

act, and the defendant shall have paid and satisfied the same, said board are hereby further authorized to reimburse, out of the county treasury, such officer the amount of said judgment, or such part thereof as may to said board seem just and right; *Provided*, said board shall be satisfied that the acts and doings of such officer in the premises were in good faith, and without any aggravating circumstances.

SEC. 3. That whenever any proceeding for a writ of habeas corpus shall have been instituted by any person imprisoned under the provisions of the said act, directed to any officer detaining such person in custody, and such officer shall have been adjudged to pay the costs of such proceeding, and shall have paid the same, the said board of commissioners are hereby authorized and empowered to allow such officer the sum or sums of money he may have been compelled to pay as aforesaid. In case of habeas corpus.

SEC. 4. It is hereby declared that an emergency exists for the immediate taking effect of this act, and that it shall take effect and be in force from and after its passage. Emergency.

CHAPTER LXIX.

AN ACT to amend the seventy-first section of an act entitled "an act providing for the election and qualification of justices of the peace, and defining their jurisdiction, powers and duties in civil cases," approved June 9th, 1852.

[APPROVED MARCH 5, 1859.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the seventy-first section of an act entitled "an act providing for the election and qualifications of justices of the peace, and defining their jurisdiction, powers and duties in civil cases," which reads as follows, to-wit: Sec. 71 amended.

"Whenever any plaintiff shall, by complaint in writing, verified by affidavit, set forth that his personal goods, not exceeding in value one hundred dollars, have been wrongfully taken, or are unlawfully detained by any other person, specifically describing such property and giving the value thereof, and alleging that the same has not been taken by virtue of an execution or other writ against him, and claiming damages

for the detention or taking the same not exceeding one hundred dollars in addition, and shall file with such justice a bond with surety, to be approved by such justice, and payable to the defendant in a sum double the value of such goods, conditioned that he will prosecute such complaint to effect and return such goods to such defendant if judgment of return be awarded him, and pay all damages awarded such defendant. the justice shall issue to some constable of the county his writ commanding him to take the property described and deliver the same forthwith to the plaintiff, and that he summons said defendant to appear at the time and place named before such justice to answer such complaint," be amended to read as follows, to-wit:

How amended.

Whenever any plaintiff shall, by complaint in writing, verified by affidavit, set forth that his personal goods, not exceeding in value one hundred dollars, have been wrongfully taken, or are unlawfully detained by any other person, specifically describing such property and giving the value thereof, and alleging that the same has not been taken by virtue of any execution or other

Writ of replevin.

writ against him, or if so taken, that the same is exempt from execution by virtue of the laws of this State, and claiming damages for the detention or taking the same, not exceeding one hundred dollars in addition, and shall file with such justice a bond with surety, to be approved by such justice, and payable to the defendant in a sum double the value of such goods, conditioned that he will prosecute such complaint to effect and return such goods to such defendant, if judgment of return be awarded to him, and pay all damages awarded such defendant, the justice shall issue to some constable of the county his writ, commanding him to take the property described and deliver it forthwith to such plaintiff, and that he summon said defendant to appear at a time and place therein named before such justice to answer such complaint.

How obtained
and executed.

CHAPTER LXX.

AN ACT to legalize the commission of justice of the peace issued to L. B. Osborn, Esq., of Jackson county, and also to legalize his acts under it.

[APPROVED FEBRUARY 12, 1859.]

Acts of A. L. Osborn as J. P. legalized.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana, That the commission issued under*

the seal of the State, dated April the 19th, 1854, commissioning L. B. Osborn, of Jackson county, Indiana, a justice of the peace in and for said county, is hereby declared to be legal, and that all acts of said Osborn, as such justice under it, are declared to have the same force and effect they would have had if the then Governor's signature had been signed thereto.

SEC. 2. Whereas, said Osborn has done many acts as such justice under said commission, and as doubts exist as to their validity, which may jeopardize the interests of the parties, it is hereby declared that an emergency exists for the immediate taking effect of this act, it is hereby further enacted that it shall take effect from and after its passage. Emergency.

CHAPTER LXXI.

AN ACT to declare the stream of Laughery Creek a navigable one, from its confluence with the Ohio River to the town of Hartford, in Ohio county.

[APPROVED MARCH 5, 1859.]

WHEREAS, A large portion of the citizens of Dearborn and Ohio counties, in this State, depend upon the navigation of the stream called Laughery Creek for the safe and speedy transportation of their agricultural and mechanical products to a good market, therefore,

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the stream of Laughery Creek, from its confluence with the Ohio River to the town of Hartford, in Ohio county, is hereby declared to be a navigable stream. Laughery Creek declared a navigable stream to Hartford.

SEC. 2. It is hereby declared that an emergency exists for the immediate taking effect of this act, it shall, therefore, be in force from and after its passage.

CHAPTER LXXII.

AN ACT to provide for the printing and binding of two thousand copies of the laws passed at the Special Session of the General Assembly in the year 1858, and at the regular session thereof in the year 1859, in the German language, and for the distribution and sale of the same.

[APPROVED MARCH 5, 1859.]

Sec. of State to have printed 2,000 copies of extra and regular session acts published in German.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the Secretary of State be, and he is hereby directed to cause to be printed in the German language, two thousand copies of the laws passed at the special session of 1858, and the laws passed at the regular session of 1859, of the General Assembly, and have the same bound in one volume, in the same manner as the laws of the General Assembly, printed in the English language, are bound.

Distribution of same.

SEC. 2. The Secretary of State is hereby directed to distribute copies of the laws printed in the German language, with the laws printed in the English language, in such manner and proportion to the several counties as may effectuate the purposes of this act. Copies not so distributed, shall be deposited in the office of the Secretary of State, who is hereby authorized to sell the same at a price equal to the cost per copy; and all moneys arising from such sales, shall be by him paid into the State Treasury.

Surplus for sale by Sec. of State.

Emergency.

SEC. 3. Inasmuch as there is no law now in force providing for the printing and binding of the laws in the German language, it is hereby declared that an emergency exists for the immediate taking effect of this act; therefore it shall be in force from and after its passage.

CHAPTER LXXIII.

AN ACT to amend sections one, seven and twelve of an act entitled "an act to authorize the construction of levees and drains," approved June 12, 1852, and supplemental thereto.

[APPROVED MARCH 4, 1859.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That section seven of an act entitled "an act to authorize the construction of levees and drains," approved June 12, 1852, which reads as follows:

"Sec. 7. The board of directors shall appoint a clerk, who may be one of their number, and a treasurer, who shall require of him a bond with sufficient penalties and sureties, payable to the association by its corporate name, conditioned for the faithful discharge of his duties and the safe-keeping and prompt payment, according to the order of the board of directors, of all moneys that may come into his hands. The directors, clerk and treasurer shall each take an oath for the faithful discharge of their respective duties, which shall be entered upon the journal," be amended to read as follows:

The board of directors shall appoint a clerk who may be one of their number, and a treasurer, who shall be required to give a bond with sufficient penalties and sureties, payable to the association by its corporate name, conditioned for the faithful discharge of his duties and the safe-keeping and prompt payment, according to the order of the board of directors, of all moneys that may come into his hands. The directors, clerk and treasurer shall each take an oath for the full discharge of their respective duties, which shall be entered upon the journal; *Provided*, That the clerk, after having [taken] an oath before some person authorized to administer an oath, shall be legally qualified to administer oaths to the other officers of the association.

SEC. 2. That section one of an act entitled "an act to authorize the construction of levees and drains," approved June 12, 1852, which reads as follows:

"That any number of persons, not less than five, who may be interested in constructing any levee or drain, may associate themselves together, and adopt and subscribe articles which shall specify the name and objects of the association," be amended to read as follows:

That any number of persons, not less than five, who may be interested in constructing any levee, drain, breakwater, or who may be interested in opening, im-

Sec. 7 amended.

Board to appoint Clerk.

Duties of Clerk; to take oath.

Clerk may administer oath to directors.

Sec. 1 amended.

Association for draining.

proving or clearing out any drain or water course, or doing any other work necessary to protect or reclaim any wet lands, or lands subject to overflow, may associate themselves together and adopt and subscribe articles which shall specify the name and objects of the association.

Sec. 12 amended. SEC. 3. That section twelve of said act, which reads as follows :

"If the board of directors shall determine to construct any levee or drain they shall appoint three appraisers, not members of the association, nor interested in the proposed work, nor in any lands to be effected thereby, who shall examine all the lands liable to be in any way affected by the proposed work, and shall make out a list of the same, and shall assess the amount of benefit or injury to each tract of land, and shall make out a schedule thereof, with the assessments aforesaid, and shall append thereto their affidavit, that the same is in all respect a true assessment, to the best of their judgment and belief, which shall be filed with the clerk of the board, who shall cause the same to be recorded in the Recorder's office of the county in which the lands lie, and from the time of such recording, such assessment shall be a lien upon said lands for the amount of the assessment," be amended to read as follows :

Appraisers to assess the lands liable to overflow, &c., of said drain or levee.

If the board of directors shall determine to construct any levee, drain or break-water, or to improve or clear out any drain or water-course, or to do any other work necessary to protect or reclaim any wet lands, or lands subject to overflow, they shall apply to the board of county commissioners, whose duty it shall be to appoint three appraisers, not members of the association nor in any way interested in the proposed work, and said appraisers when so appointed, shall examine all the lands liable in any way to be affected by the proposed work, and shall make out a list of the same, and shall assess the amount of benefit or injury to each tract of land, and shall make out a schedule thereof, with their assessments aforesaid, and shall append thereto their affidavits that the same is in all respects a true assessment, to the best of their judgment and belief, which shall be by them filed with the clerk of the board, who shall cause the same to be recorded in the Recorder's office of the county or counties in which the lands lie ; and from the time of such recording said assessment shall be a lien upon said lands for the amount of the assessment of benefit, or assessment of benefit less the assessment of injury, in case there is injury and benefit to the same individual.

Who shall file schedule with Clerk of Board. Schedule to be recorded in Recorder's office.

To be lien as per assessment.

Members of company liable for debts contracted, etc.

SEC. 4. All the members of such companies shall be individually liable for all debts contracted by, and damages assessed against any company of which he may at the time be a member.

SEC. 5. Any such board is empowered to use for the purpose of constructing, improving or maintaining any ditch, drain or water-course any amount of land necessary for the same, not exceeding two rods in width, by first paying to the owner of the land whatever amount of damages may be assessed to him by the appraisers.

May use adjoining lands by paying damages.

SEC. 6. Any person who shall obstruct the channel of any ditch, drain or water-course constructed, improved or maintained by any such company, shall be liable to such company for every day such obstruction shall continue in the sum of one dollar, to be recovered by an action brought before a justice of the peace in the name of such company.

Persons obstructing drain liable to company for damages.

SEC. 7. All the other provisions of said act, approved June 12, 1852, shall continue in full force and apply to sections one, seven and twelve as amended by this act, and to the supplemental sections of this act.

Other provisions of amended act continued.

SEC. 8. This act to be in force from and after its passage.

Emergency.

CHAPTER LXXIV.

AN ACT to fix the amount of the salary of the State Librarian, and repealing all former laws conflicting therewith, and to dispense with an Assistant Librarian and Clerk.

[APPROVED MARCH 4, 1859.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the salary of the State Librarian shall be eight hundred dollars per annum, payable quarterly out of the State Treasury: nor shall any extra amount be paid for an assistant librarian or clerk.

Salary of Librarian.

Nothing extra allowed for clerk.

SEC. 2. That section 15 of "An act to amend the several acts providing for the preservation of the State House, State Library and Legislative Papers," approved January 15, 1846, be, and the same is hereby repealed.

Laws repealed.

SEC. 3. Whereas the newly elected State Librarian has imposed upon him by this Legislature, new duties not heretofore required, it is therefore declared that there is an emergency existing for the immediate taking effect of this act, and that the same shall be in force from and after its passage.

Emergency.

CHAPTER LXXV.

AN ACT for the better protection of religious meetings, agricultural fairs, and other lawful assemblages of the people.

[APPROVED MARCH 3, 1859.]

Huckster stands,
gaming apparatus,
etc., prohibited.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That if any person shall erect, bring, keep, continue or maintain, any booth, tent, wagon, huckster shop, or other place for the sale of intoxicating liquors, cider, beer, or other drinks, or for the sale of any other article whatever, or shall sell or give away any intoxicating liquors, cider, beer or other drinks, or any other article, whatever, or shall keep or exhibit any gaming table, roulette, shuffle board, faro bank, nine-pin or ten-pin alley, or billiard table, or any other gaming or wagering apparatus whereby any money or article of value may be lost or won; or any person who may be the owner or proprietor of any real property, who shall rent or permit the same to be occupied for any such purpose, within one mile of any collection of any inhabitants of this State met together for worship, or any agricultural fair or exhibition, or who shall in any way interrupt, molest or disturb such religious meeting or agricultural fair or exhibition, or any person present thereat, or going to, or returning therefrom, or who shall molest or disturb any meeting of inhabitants of this State met together for any lawful purpose, shall be fined in any sum not more than twenty-five dollars nor less than five dollars.

Disturbing meeting.

Penalties.

Construction of this act.

SEC. 2. The preceding section shall not be construed to include such persons as may carry on their regular business at their usual places of transacting the same, nor persons as may own in fee simple the realty within one mile of the places named in section one of this act, who shall desire to carry on in his or their own person, the business of providing food for the persons or the stock of those attending the places above named, nor to such persons as may have the permission of those having charge of any such meeting or exhibition, to establish suitable places for the purpose of furnishing food for those attending the same, for horses, cattle or other stock.

CHAPTER LXXVI.

AN ACT making the register of sales of Michigan Road lands, and certified copies of entries therein, evidence, and declaring the effect thereof, and making the records of patents and certificates of purchase, and other evidence in writing of the sale of real estate, and certified copies of such records evidence, and declaring the effect thereof.

[APPROVED MARCH 5, 1859.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the register now remaining in the office of the Secretary of State of the sales of the Michigan Road lands, and certified copies of any entry therein, under the seal of the State, shall be admissible in evidence in all courts and places, and such register, or a certified copy of the entry of the sale of a tract of land therein described, by any person or persons therein named, as the purchaser thereof, shall be prima facie evidence that such person or persons designated in said register was the purchaser thereof, and that the title to the same has been conveyed by the State to the purchaser in fee simple.

Register of sale
of M. R. lands
prima facie evi-
dence of title.

SEC. 2. That record of all patents and all certificates of purchase, and all other evidence in writing of the sale of real estate, whether issued by the United States, or of this State, or made by any person or corporation, and all duly certified copies of such record, shall be admissible in evidence in all courts and places, with the same force and effect as if the original was produced.

Record of patents
of all lands sold,
etc., evidence of
title.

SEC. 3. Inasmuch as there is no law for the admission of such records, register and certified copies thereof in evidence, it is hereby declared that an emergency exists for the immediate taking effect of this act; wherefore, this act shall take effect and be in force from and after its passage.

Emergency.

CHAPTER LXXVII.

AN ACT to amend an act entitled "an act to amend the thirty-second section of an act defining misdemeanors and prescribing punishment therefor, approved June 14, 1852," approved March 7th, 1857.

[APPROVED FEBRUARY 23, 1859.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That section one of an act entitled "an act to amend the thirty-second section of an act entitled 'an act defining misdemeanors and prescribing punishment therefor,' approved June 14th, 1852," approved March 7th, 1857, which is in the following words, to-wit :

"If any person shall sell a lottery ticket or tickets, or share in any lottery scheme or gift enterprise, or act as agent for any lottery scheme or gift enterprise, or aid or abet any person or persons to engage in the same, or shall transmit money by mail or by express, or otherwise transmit the same to any lottery scheme or gift enterprise for the division of property to be determined by chance, or shall make or draw any lottery scheme or gift enterprise for a division of property not authorized by law, such person, on conviction, shall be fined not less than fifty dollars nor exceeding five hundred dollars for every such offense, to which may be added imprisonment in the county jail not exceeding thirty days," be so amended as to read :

Purchase or sale
of tickets prohib-
ited.

SEC. 32. If any person shall sell a lottery ticket or tickets, or share in any lottery scheme or gift enterprise, or act as agent for any lottery scheme or gift enterprise, or aid or abet any person or persons to engage in the same, or shall transmit money by mail or express, or otherwise transmit the same to any lottery scheme or gift enterprise for the division of property, to be determined by chance, or shall make or draw any lottery scheme or gift enterprise for a division of property not authorized by law, such person, on conviction, shall be fined in any sum not exceeding five hundred dollars.

CHAPTER LXXVIII.

AN ACT to prevent carrying concealed or dangerous weapons, and to provide punishment therefor.

[APPROVED FEBRUARY 23, 1859.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That every person not being a traveler, who shall wear or carry any dirk, pistol, bowie-knife, dagger, sword in cane, or any other dangerous or deadly weapon concealed, or who shall carry or wear any such weapon openly, with the intent or avowed purpose of injuring his fellow man, shall, upon conviction thereof, be fined in any sum not exceeding five hundred dollars.

Carrying concealed weapons prohibited.

CHAPTER LXXIX.

AN ACT to prevent the throwing or depositing any carrion or dead animal into any running stream or lake of water in this State, and to prevent the depositing or burying any carrion or dead animal on the banks of the same, and prescribing the penalty for the violation thereof.

[APPROVED MARCH 3, 1859.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That any person who shall throw or deposit any dead animal or carrion in any running stream of water, or any lake within this State, or bury or deposit any dead animal or carrion on the banks of any running stream or lake of water within this State, so that the water may become vitiated thereby, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than five dollars nor more than twenty dollars.

Throwing carrion in running streams prohibited.

CHAPTER LXXX.

AN ACT to amend the eighteenth section of an act entitled "An act defining misdemeanors, and prescribing punishment therefor," approved June 14, 1852.

[APPROVED MARCH 5, 1859.]

Sec. 18 amended. SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the eighteenth section of an act entitled "an act defining misdemeanors, and prescribing punishment therefor," approved June 14th, 1852, which reads as follows, to wit:

"If any person shall maliciously, without probable cause, attempt to cause an indictment to be found, or other prosecution, for any crime or misdemeanor to be commenced against any person; or if two or more persons shall conspire together for that purpose, the person so sought to be indicted or otherwise prosecuted being innocent, such person or persons so offending shall be fined not exceeding one thousand dollars, be imprisoned not exceeding six months, and be ever after incapable of serving as a juror, giving evidence as a witness, or voting at any election," be and the same is hereby amended so as to read as follows, to wit:

Malicious prosecution, penalty for.

If any person shall maliciously, without probable cause, attempt to cause an indictment to be found, or other prosecution, for any crime or misdemeanor, to be commenced against any person; or if two or more persons shall conspire together for that purpose, the person so sought to be indicted or otherwise prosecuted being innocent, such person or persons so offending shall be fined not exceeding one thousand dollars, to which may be added imprisonment not exceeding six months.

CHAPTER LXXXI.

AN ACT to amend the thirty-sixth section of an act entitled "An act defining misdemeanors, and prescribing punishment therefor."

[APPROVED MARCH 5, 1859.]

Sec. 36 amended. SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the thirty-sixth section of an act entitled "an act defining misdemeanors and pre-

scribing punishment therefor," approved June 14th, 1852, which reads as follows, to wit:

"Every person who shall willfully administer to any pregnant woman, or to any woman whom he supposes to be pregnant, any thing whatever, or shall employ any means with intent thereby to procure the miscarriage of such woman, unless the same is necessary to preserve her life, shall be punished by imprisonment in the county jail not exceeding twelve months, and be fined not exceeding five hundred dollars," be and the same is hereby amended to read as follows, to wit:

SEC. 2. Every person who shall wilfully administer How amended. to any pregnant woman, or to any woman whom he supposes to be pregnant, any thing whatever, or shall employ any means with intent thereby to procure the miscarriage of such woman, unless the same is necessary to preserve her life; and any person as druggist, apothecary, physician, or other person selling medicine, whether he be a merchant or pedlar, who shall sell any medicine in the form of pills, powders, fluid, or in any other form, which from its character by advertisement or otherwise is known to be capable of producing abortion or miscarriage, with intent to produce abortion, notwithstanding any caution given in the advertisement of such medicine, or contained in the directions accompanying the same, for any such offense, the person or persons guilty of the same shall be deemed guilty of a misdemeanor, and shall be punished by imprisonment in the county jail not exceeding twelve months, Penalty. and be fined not exceeding five hundred dollars.

CHAPTER LXXXII.

AN ACT to authorize the formation of limited partnerships, and fixing the liabilities of the several partners, and prescribing the proceedings against them.

[APPROVED MARCH 5, 1859.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That limited partnerships for the transaction of merchantile, mechanical or manufacturing business within this State, may be formed by two or more persons, upon the terms, and subject to the conditions and liabilities prescribed in this act, but nothing Limited partnerships may be formed.

contained in this act shall authorize such partnerships for the purpose of banking or insurance.

General partners responsible; special partners not liable except, etc.

SEC. 2. The said partnerships may consist of one or more persons, who shall be called general partners, and shall be jointly and severally responsible, as general partners now are by law, and of one or more persons, who shall contribute to the common stock a specific sum in actual cash payment, as capital, and who shall be called special partners, and shall not be personally liable for any debts of the partnership, except in such cases as is hereinafter mentioned.

Certificate of partnership, amount of capital, etc.

SEC. 3. The persons forming such partnerships shall make, and severally sign a certificate, which shall contain the name or firm under which such partnership is to be conducted, and the names, both christian and surname, and respective places of residence of all the general and special partners, distinguishing who are the general and who are the special partners, the amount of capital which each special partner has contributed to the common stock, and the general nature of the business to be transacted, and the time when the partnership is to commence and when it is to terminate.

To be signed and acknowledged by all partners, and recorded by Co. recorder.

SEC. 4. No such partnership shall be deemed to have been formed until a certificate, made as aforesaid, shall be acknowledged by all the partners before some justice of the peace, and recorded in the office of the recorder of the county in which the principal place of the business of the partnership is situated, in a book to be kept for that purpose, open to public inspection; and if the partnership shall have places of business situated in different counties, a copy of the certificate, certified by the recorder in whose office it shall be recorded, shall be filed and recorded in like manner in the office of the recorder in every such county; and if any false statement shall be made in any such certificate, all the persons interested in the partnership shall be liable as general partners for all the engagements thereof.

All partners liable for damages resulting from misstatement in certificate.

Certificate to be published consecutively 6 weeks; if not published, partnership to be deemed general.

SEC. 5. The partners shall, for six successive weeks immediately after such registry, publish a copy of the certificate above mentioned, in a newspaper printed in the county where their principal place of business is situated, and if no such paper be there printed, then in a newspaper printed in this State nearest thereto; and in case such publication be not so made, the partnership shall be deemed general.

Renewal of partnership.

SEC. 6. Upon every renewal or continuation of a limited partnership beyond the time originally agreed

upon for its duration, a certificate thereof shall be made, acknowledged, recorded and published, in like manner as is provided in this article for the original formation of limited partnerships; and every such partnership which shall not be renewed in conformity with the provisions of this section, shall be deemed a general partnership.

SEC. 7. The business of the partnership shall be conducted under a firm in which the names of the general partners only shall be inserted, without the addition of the word "company," or any other general term, and the general partners only shall transact the business; and if the name of any special partner shall be used in such firm with his consent or privity, or if he shall personally make any contract respecting the concerns of the partnership, with any person except the general partners, he shall be deemed and treated as a general partner.

Business to be transacted by general partners.

Special partner transacting business to be deemed general partner.

SEC. 8. During the continuance of any partnership under the provisions of this article, no part of the capital stock thereof shall be withdrawn, nor any division of interest or profits be made so as to reduce such capital stock below the sum stated in the certificate before mentioned; and if, at any time during the continuance, or at the termination of the partnership, the property or assets shall not be sufficient to pay the partnership debts, then the special partners shall severally be held responsible for all sums by them in any way received, withdrawn, or divided, with interest thereon from the time when they were so withdrawn respectively.

Capital not to be reduced.

SEC. 9. No general assignment by said partnership, in case of insolvency, or where their goods and estate are insufficient for the payment of all their debts, shall be valid unless it shall provide for a distribution of the partnership property among all the creditors in proportion to the amount of their several claims.

In case of partnership becoming insolvent, special partners to be liable.

SEC. 10. In case of an assignment as provided for in the preceding section, the assent of the creditors shall be presumed, unless within sixty days after notice thereof, they shall dissent, either expressly, or by some act clearly implying such dissent; and no such assignment shall be valid unless notice thereof shall be given in some newspaper printed in the county where the place of business of the party making it is situated; or if no newspaper be printed in such county, then in some newspaper printed in this State nearest thereto, within fourteen days after the making of such assignment.

Assignment on account of insolvency invalid unless it provides for distribution among all creditors. Provisions for assignments.

Suits to be by and against general partners, except in certain cases.

SEC. 11. All suits respecting the business of such partnership, shall be prosecuted by and against the general partners only, except in those cases in which provision is made in this article, that the special partners shall be deemed general partners, and that special partnerships shall be deemed general partnerships, in which cases, all the partners deemed general partners, may join or be joined in such suits; and excepting also, those cases where special partners shall be held severally responsible on account of any sums by them received or withdrawn from the common stock as before provided.

Dissolution of partnerships.

SEC. 12. No dissolution of a limited partnership shall take place except by operation of law, before the time specified in the certificate before mentioned, unless a notice of such dissolution shall be recorded in the recorder's office in which the original certificate, or the certificate of renewal or continuation of the partnership was recorded; and unless such notice shall also be published for six successive weeks in some newspaper printed in the county where the certificates of formation of such partnership were published according to the provisions of this article; and if no newspaper shall, at the time of such dissolution, be printed in such county, then the notice of such dissolution shall be published in some newspaper printed in this State nearest thereto.

Cases not provided for in this law.

SEC. 13. In all cases not otherwise provided for in this article, the members of limited partnerships shall be subject to all the liabilities and entitled to all the rights of general partners.

CHAPTER LXXXIII.

AN ACT to require surviving partners to file inventories and appraisements in the office of the Clerk of the Court of Common Pleas, and to report the liabilities of the firm.

[APPROVED MARCH 5, 1859.]

Surviving partners required to settle business of deceased.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That in case of the death of one partner, the surviving partner or partners shall proceed to settle and close up, as speedily as may be practicable, the partnership affairs in accordance with the law now in force.

SEC. 2. Such surviving partner or partners, within sixty days after such death, shall proceed to make a full, true, and complete inventory of the estate, goods, chattels, rights, credits, moneys and effects, within his or their knowledge, and shall cause the same to be appraised by two competent freeholders or householders of the neighborhood, one of whom shall be selected by the surviving partner or partners, and the other by the Clerk of the Court of Common Pleas, making a full and complete schedule thereof, which said schedule and appraisement shall be sworn to by said appraisers before the Clerk of the Court of Common Pleas, specifying in their affidavit that the property described in said schedule is appraised at its true cash value; which schedule shall, by said appraisers, be filed in the office of the Clerk of the Court of Common Pleas, immediately after the completion thereof.

Shall make inventory of goods to be appraised.

Schedule of appraisement to be filed in Clerk's office.

SEC. 3. It shall be the duty of such surviving partner or partners, immediately upon the filing of said schedule of appraisement, to file with the Clerk of the Court of Common Pleas his or their affidavit, that the schedule filed by said appraisers contains a full, true and complete list of all property, rights, credits, moneys and effects belonging to said firm, and at the same time shall file a full, true and complete list of all the liabilities of said firm, at the time of the death of said deceased partner, to which said list of liabilities of said surviving partner or partners shall also be appended his or their affidavit, testifying to the correctness thereof.

Surviving partner to file affidavit of truth of schedule.

CHAPTER LXXXIV.

AN ACT to provide for the erection of a new Prison north of the National Road, election of officers therefor, making appropriations, and for the regulation of the same.

[APPROVED MARCH 5, 1859.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That there shall be elected by a joint vote of the General Assembly of the State of Indiana, at its present session, three directors, and in case

Three directors to be elected.

of failure to elect, then to be appointed by the Governor, who are hereby constituted a Board of Control to superintend the letting and construction of a State Prison in that part of the State lying north of the National Road. Said directors shall hold their office for the term of two years, and until their successors are elected and qualified.

To select site for new Prison.

SEC. 2. It shall be the duty of said Board of Control, after a careful examination, to select in that part of the State a suitable site for the location of a State Prison, which selection, when made, shall be reported to the Governor for his approval, and when approved by him, shall be the place at which said prison shall be erected, and if disapproved by him, said board shall, without further delay or examination, select another site, or sites, until the said board and Governor shall agree on a place for the erection of said prison.

Contract for land for same.

SEC. 3. When the place for the location of said prison shall have been agreed upon, the said board shall, without delay, contract for the purchase of not exceeding one hundred acres of land, at a cost of not exceeding one hundred dollars per acre, which they shall procure to be deeded to the State of Indiana, and shall thereupon advertise for proposals for the erection of said prison, upon such plan, embracing walls, cell-houses, offices, and such other necessary buildings and fixtures, as may be required to complete the establishment for the accommodation of the necessary officers and three hundred convicts, and the safe keeping thereof, in not exceeding five newspapers, two of which shall be published in the vicinity of the prison, and the others such as may be best calculated to call out competition in bids for the same, or if deemed best by said board, they may advertise and let portions of said edifice and buildings to different parties, but in letting such contract or contracts, they shall provide for the working of one hundred and fifty convict laborers on the premises, at not less than seventy cents per day each; and it shall be the duty of the Governor, when necessary, to give his order on the Warden of the present prison for said number of convicts, who shall, from time to time, detail for such purpose the most trusty of such convicts now in prison, as may be required, with a suitable number of guards for the control and safe keeping of the same.

Shall advertise for proposals to build.

To work 150 convicts.

Safe keeping of convicts.

SEC. 4. Said Board of Directors shall, before the removal of said prisoners, provide a place for the tempo-

rary safe keeping of the same during the time they shall be employed on said prison.

SEC. 5. At the time appointed in said advertisement for the examination of the bids for said work, the said board shall meet at the city of Indianapolis, and they, together with the Governor, shall examine the bids, and award the contract to the lowest responsible bidder, or they may award portions of said work to such bidders, if they shall deem proper to do so, but said prison shall not cost, exclusive of the convict labor aforesaid, to exceed the sum of fifty thousand dollars; and upon the letting or lettings, as aforesaid, a contract or contracts shall be entered into by the contractor or contractors with the said board, in a penalty of double the amount of the work to be performed, with good and ample security, conditioned for the honest and faithful performance of the work specified in the contract under the superintendence hereinafter named, and the contract so made shall be filed and carefully preserved in the office of the Auditor of State; *Provided*, that neither of the directors of the present State Prison, nor any officer, agent, employee thereof, or person connected therewith, in any wise, nor any officer named herein, shall contract for any portion of the work herein provided for, or have any interest directly or indirectly therein, except to see that the same is faithfully executed.

Directors and Governor to award contract

Contract to be made under bond and be preserved with Auditor of State.

Proviso.

Director, agent or officer may not be contractor.

SEC. 6. When the work is so let, the Board of Control aforesaid shall make out a written statement, under oath, setting forth the number of bids presented, the name of each bidder, the nature and amount of his bid, and the action of said board thereon, and shall state that neither of them has received any bonus or gratuity of any nature or kind, or the promise thereof, in connection with or having reference to said lettings, and that they are not in any way interested in the proposals received or contracts made, and such statement, with the proposals or bids, shall be filed with and kept by the Treasurer of State.

Statement of bids, etc., to be filed with Treasurer of State.

SEC. 7. A competent and skillful person shall be selected by the said board, who shall remain on the prison grounds, and superintend the erection thereof, and see that the work is faithfully and well done, according to contract, and shall make monthly estimates of the work done, under oath, and also the amount of convict labor performed in the same time, and file the same with the Auditor of State, who shall, in issuing his warrant to the contractor, or contractors, after deduct-

Superintendent make monthly reports and file the same, etc.

ing the convict labor performed for each, retain ten per cent. from the estimate, until the work is fully completed according to the contract made.

Board of Control
may declare con-
tracts void, etc.

SEC. 8. Said board shall have the power to declare all contracts made under this act void, when the work is not being done, or the material to be furnished are not furnished in quality, or in the time stipulated for in the contract, and shall, in such event, re-let the work upon the same terms, except as to notice, as is provided in this act, and the substance of this section shall be set forth in each contract.

Tenure of Super-
intendent's office.

SEC. 9. The person whose appointment is provided for in section seven of this act, shall, under the supervision and control of the board aforesaid, discharge the duties of Warden of said prison, until his successor is elected and qualified, or until he shall be removed and a new appointment be made by the said board, who are hereby invested with full power for that purpose.

Per diem of Di-
rectors and
Superintendent.

SEC. 10. The Board of Control and the person whose appointment is provided for in section seven of this act, shall be allowed each three dollars per day, for all the time necessarily employed by them in the performance of the duties required by this act.

Fifty thousand
dollars ap-
propriated.

SEC. 11. In order to carry out the provisions of this act, there is hereby appropriated the sum of fifty thousand dollars, out of any money in the treasury.

Necessary expen-
ses, how paid.

SEC. 12. The necessary expenses of said prison, and the control and management thereof, shall be paid out of the State Treasury under such regulations and restrictions as may be adopted by the Board of Control, and, as far as practicable, in conformity with the practice and usages of the present State Prison.

To be governed
by what law.

SEC. 13. All laws and regulations in force in reference to the government of the convicts, officers, and other matters in the present State prison, be continued in force in reference to the management and control of this prison, as far as the same can be made applicable.

Emergency.

SEC. 14. Whereas, an emergency exists for the immediate taking effect of this act, therefore, the same shall take effect and be in force from and after its passage.

CHAPTER LXXXV.

AN ACT to amend the 207th and 208th sections of an act entitled "an act to revise simplify and abridge the rules, practice, pleadings and forms in civil cases in the courts of this State, to abolish distinct forms of action at law, and to provide for the administration of justice in a uniform mode of pleading and practice, without distinction between law and equity," approved June 18, 1852, so as to authorize a change of venue in certain cases.

[APPROVED MARCH 5, 1859.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That section two hundred and seven of an act entitled "an act to revise simplify and abridge the rules, practice, pleadings and forms in civil cases in the courts of this State, to abolish distinct forms of action at law, and to provide for the administration of justice in a uniform mode of pleading and practice, without distinction between law and equity," approved June 18, 1852, which is in the words following, to-wit:

"Sec. 207. The court in term, or the judge in vacation, may change the venue of any civil action, upon the application of either party made upon affidavit, showing one or more of the following causes:

First. That the judge has been engaged as counsel in the cause prior to his election or appointment as judge, or is otherwise interested in the cause; or

Second. That the judge is of kin to either party; or

Third. That the opposite party has an undue influence over the citizens of the county, or that an odium attaches to the applicant, or to his cause of action or defence, on account of local prejudices; or

Fourth. When the county is a party to the suit; or

Fifth. That the convenience of witnesses and the ends of justice would be promoted by the change," be and the same is hereby amended to read as follows, to-wit:

Sec. 207. The court in term, or the judge thereof in vacation, may change the venue of any civil action upon the application of either party made upon affidavit, showing one or more of the following causes:

First. That the judge has been engaged as counsel in the cause prior to his election or appointment as judge, or is otherwise interested in the cause; or

Second. That the judge is of kin to either party; or

Third. That the opposite party has an undue influence over the citizens of the county, or that an odium attaches to the applicant or to his cause of action or defence, on account of local prejudices; or

Fourth. When the county is a party to the suit; or

Sec. 207 amended.

Change of venue may be had.

1st. When judge has been engaged as counsel.

2d. When judge of kin.

3d. When opposite party has influence with judge.

4th. When county is party.

5th. Convenience of witnesses, etc.

Fifth. Showing to the satisfaction of the court that the convenience of witnesses and the ends of justice would be promoted by the change; or

6th. When judge is witness.

Sixth. That the judge of the court wherein such action is pending, is a material witness for the party applying for such change; or

7th. When affidavit of prejudice is filed.

Seventh. When either party shall make and file an affidavit of the bias, prejudice or interest of the judge before whom the said cause is pending, the said court shall grant a change of venue.

Sec. 208 amended.

SEC. 2. That the two hundred and eighth section of the act named in the title to this act, which section reads as follows, to-wit :

"Sec. 208. When a change of venue is directed, the clerk of the court in which the suit is pending, shall forthwith transmit the papers and a transcript of the proceedings to the clerk of the court to which the venue is changed, the party applying for the change first paying the costs thereof. And the clerk of the proper court shall receive the papers and transcript, giving a receipt therefor, and docket the action in its order among the other causes of the court; and the action shall stand for trial at the first term, and shall be tried in the same manner as if the cause had originated in that court," be and the same is hereby amended to read as follows, to-wit :

Transmission of papers, transcripts, etc.

When a change of venue is directed for any of the causes mentioned in the third, fourth and fifth specifications named in section two hundred and seven, the clerk of the court in which the suit is pending, shall forthwith transmit the papers and a transcript of the proceedings to the clerk of the court to which the venue is changed; the party applying for the change first paying the costs thereof. And the clerk of the proper court shall receive the papers and transcript, giving a receipt therefor, and docket the action in its order among the other causes of the court, and the action shall stand for trial at the first term, and shall be tried in the same manner as if the cause had originated in that court. And upon the granting of such change of venue for any of the causes mentioned in the first, second, sixth and seventh specifications of section two hundred and seven, the judge shall appoint a time to hold said trial, which shall not be less than sixty days from that time; and it shall be his duty to call some judge of the circuit court or of the Supreme Court, if such cause be in the circuit court, and if in the common pleas court, any judge of the supreme, circuit or common pleas court, to try said cause, who shall try the same as if the same had originally been brought before him.

Docketing in Co. where venue is taken to.

Time of holding trial.

SEC. 3. Whereas there is now no law by which Emergency. changes of venue can be obtained in some of the above mentioned cases; therefore, it is hereby declared that an emergency exists for the immediate taking effect of this act; it is therefore declared to be in force from and after its passage and publication the Indiana State Sentinel and Indiana State Journal.

NOTE.—Published in Sentinel, March 10, in Journal, March 11, 1859.

CHAPTER LXXXVI.

AN ACT providing for the use as evidence of depositions taken to perpetuate testimony prior to the taking effect of the Revised Statutes of 1852, and for the publication and recording of depositions heretofore taken, or hereafter to be taken, to perpetuate testimony, and for the use of such record and copies thereof as evidence.

[APPROVED MARCH 2, 1859.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That any deposition which may have been taken and filed in the office of the clerk of any circuit court of this State, for the purpose of perpetuating testimony, at any time prior to the taking effect of the Revised Statutes of 1852, in pursuance of any previous statute of this State in force at the time of the taking and filing of such deposition, may be used as evidence by the same persons or parties, in the same controversies or actions, and under the same circumstances that would authorize its use if it had been taken and filed since the taking effect of the law now in force on that subject, saving in all cases, to any party, the right of objecting to such deposition, or any part thereof, when offered in evidence, for illegality in taking the same, incompetency or incapacity of the witness, or for any other cause which would have been a good ground of objection under the law existing at the time the deposition may have been taken. Depositions in certain cases made evidence.

SEC. 2. Any deposition which has heretofore been taken and filed for the purpose of perpetuating testimony, in pursuance of any existing or former statute of this State, as well as any deposition which may hereafter be taken and filed to perpetuate testimony, may, Depositions in certain cases to be entered of record, at cost of party having it done.

at any time, either before or after the commencement of the action in anticipation of which such deposition may have been taken, be published by order of the court in the office of whose clerk the same may be filed, on the motion of any person or party interested in the preservation of the testimony, and such deposition, with all the accompanying affidavits, orders, notices, and other documents, shall be directed by such court, to be entered of record, in the order book of such court, at the cost of the party making such motion, and such record shall contain a statement or recital of the date of the filing of such deposition.

The record made evidence.

SEC. 3. The record of any deposition recorded under the provisions of the last section, and copies of such record, duly certified, may be used as evidence, whenever and wherever the original deposition might be used.

Repealing clause.

SEC. 4. All acts or parts of acts which are in conflict with the provisions of this act, are hereby repealed.

Emergency.

SEC. 5. There being no law providing for the publication of depositions taken to perpetuate testimony until after the anticipated action is commenced, and no law for the recording of such depositions, an emergency is therefore declared to exist, rendering it proper that this act should take effect immediately after its passage; wherefore, it is hereby enacted that this act shall take effect and be in force from and after its passage.

CHAPTER LXXXVII.

AN ACT to regulate the practice in certain cases appealed to the Supreme Court.

[APPROVED MARCH 4, 1859.]

When appellant shall fail to file record, etc.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That in all cases appealed to the Supreme Court where bond shall have been filed in the court below in term, and execution therein stayed, and the appellants shall fail to file in the office of the Clerk of the Supreme Court the record of the cause so appealed, within the time required by law, the party in whose favor the judgment may be in the court below, may

have execution thereon, upon the filing with the clerk of the proper court the certificate of the clerk of the Supreme Court, showing that said record was not so filed in proper time. *Provided, however,* That nothing in this section shall be so construed as to prevent any such appellant from filing the transcript and perfecting an appeal afterwards, according to law. Provided, etc.

SEC. 2. That in all cases appealed to the Supreme Court, where the judgment below has been for the recovery of money, and the same shall be fully and unconditionally affirmed in the Supreme Court, the clerk of the court below shall be authorized to issue execution on said judgment as soon as the certified copy of the opinion and judgment of the Supreme Court so affirming said judgment, shall be filed in his office. When judgment for recovery of money, etc.

SEC. 3. The provisions of the foregoing sections shall apply to all cases heretofore, as well as hereafter appealed and decided in the Supreme Court. This act to apply to former cases as well as new ones.

SEC. 4. That inasmuch as there is now no law properly regulating the practice in the cases embraced in this act, it is declared that an emergency exists, and that the same shall take effect and be in force from and after its passage. Emergency.

CHAPTER LXXXVIII.

AN ACT fixing the time and mode of electing State Printer, defining his duties, fixing compensation, and repealing all laws coming in conflict with this act.

[PASSED MARCH —, 1859.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That there shall be elected, biennially, counting from the month of January, one thousand eight hundred and sixty-one, by the General Assembly, a State Printer, who shall serve for two years next from and after his election and qualification; and such printer shall, within twenty days after his said election, enter into bond, with sufficient surety, to the satisfaction of the Secretary, Treasurer, and Auditor of State, with condition for the prompt, accurate, and workmanlike execution of the public printing, and the State Printer to be elected biennially by Legislature.
Printer to give bond.

faithful performance of all the duties required of him by law.

List of prices. SEC. 2. The prices to be paid the Public Printer, from and after the taking effect of this act, are hereby established as follows: For composition, per one thousand ems, plain matter, forty-five cents; figure work, per one thousand ems, sixty cents; rule and figure work, per one thousand ems, seventy-five cents; index matter, per one thousand ems, forty-five cents. Press work, per token of two hundred and fifty impressions, sixteen pages to the form, common, forty cents; broadsides, per token of two hundred and fifty impressions, fifty cents. **Folding.** Folding reports and bills, per hundred copies, on each signature (distinct tables to be considered as signatures), ten cents; stitching reports and bills, per hundred copies, twelve and a half cents; *Provided*, the State Printer shall in no case stitch [stretch] out the matter, on any page, beyond what would give the page a neat workmanlike appearance; and *provided further*, that when a form, at the close of a report or other work, shall not exceed eight pages, it shall be printed and charged as eight pages; also, *provided further*, that in no case shall composition be charged for more than one page of printed covers, except where such printed cover has necessarily more than one page of printed matter thereon.

Printed covers to be charged for not more than one page. SEC. 3. It is hereby made the duty of the State Printer to keep separate and apart from any other stationery all stationery furnished him on account of the State; and it is further made his duty to account to the Secretary of State for all stationery placed in his hands on account of the State.

To keep State paper separate, and to account to Sec. of State for same. SEC. 4. It is hereby made the duty of the State Printer to furnish to the Secretary of State, quarterly, a specific statement, verified by affidavit, of all work by him done for the State; and it is made the duty of the Secretary of State to keep such statement on file for the inspection of the General Assembly, or a committee thereof.

To furnish Sec. of State a statement of work done for State, quarterly. SEC. 5. No charges shall be made for any specific work, unless such work shall have been actually performed.

No constructive charges to be made. SEC. 6. All laws or parts of laws coming in conflict with the provisions of this act are hereby repealed.

Repealing clause. SEC. 7. Whereas, in the opinion of this General Assembly, an emergency exists for the immediate taking effect of this act, therefore this act shall be in force from and after its passage.

Emergency.

CHAPTER LXXXIX.

AN ACT to amend the fifth and eighth sections of an act entitled "an act to provide for equalizing the appraisement for taxation of the real property of the State of Indiana," approved May 23, 1852, constituting County Auditors distinct Boards of Equalization, providing where they shall meet; providing for equalizing appraisements between counties and Congressional Districts; providing for a State Board of Equalization, and constituting the Auditor of State President of the State Board of Equalization.

[APPROVED MARCH 4, 1859.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the fifth section of an act entitled "an act to provide for the equalizing the appraisement for taxation of the real property of the State of Indiana," approved May 28, 1852, which reads as follows, viz:

Sec. 5 amended.

"Sec. 5. The Auditors of the several counties in each Congressional District in this State, shall meet at a central point in each district, as designated in this section, on Wednesday after the third Monday of June, next after the meeting of the county boards of equalization, mentioned in the preceding section, and shall constitute a district Board of Equalization, and shall, when so met, appoint a chairman to preside over their deliberations. The district board for the First Congressional District, shall meet at the county seat of Pike county; the district board of the Second Congressional District shall meet at the county seat of Floyd county; the district board for the Third Congressional District shall meet at the county seat of Bartholomew; the district board of the Fourth Congressional District shall meet at the county seat of Franklin county; the district board of the Fifth Congressional District shall meet at the county seat of Wayne county; the district board for the Sixth Congressional District shall meet at the county seat of Marion county; the district board for the Seventh Congressional District shall meet at the county seat of Clay county; the district board for the Eighth Congressional District shall meet at the county seat of Tippecanoe county; the district board for the Ninth Congressional District shall meet at the county seat of Fulton county; the district board for the Tenth Congressional District shall meet at the county seat of Noble county; and the district board for the Eleventh Congressional District shall meet at the county seat of Grant county," shall be so amended as to read as follows, viz:

Sec. 5. The auditors of the several counties in each Congressional District in this State, shall meet at a central point in each District as designated in this section, on the Wednesday after the third Monday of June, next after the meeting of the county boards of equalization, mentioned in the preceding section, and shall constitute a district board of equalization, and shall, when so met,

appoint a chairman to preside over their deliberations. The district board of the First Congressional District, shall meet at the county seat of Gibson county; the district board of the Second Congressional District shall meet at the county seat of Floyd county; the district board of the Third Congressional District shall meet at the county seat of Jennings county; the district board of the Fourth Congressional District shall meet at the county seat of Decatur county; the district board of the Fifth Congressional District shall meet at the county seat of Wayne county; the district board of the Sixth Congressional District shall meet at the county seat of Marion county; the district board of the Seventh Congressional District shall meet at the county seat of Vigo county; the district board of the Eighth Congressional District shall meet at the county seat of Tippecanoe county; the district board of the Ninth Congressional District shall meet at the county seat of Marshal county; the district board for the Tenth Congressional District shall meet at Kendleville, Noble county; and the district board for the Eleventh Congressional District shall meet at the county seat of Wash [Wabash] county; and that a majority of the auditors of each Congressional District, when met, shall constitute a quorum, and may do and transact business.

Sec. 8 amended.

Also, section eight, which reads as follows:

"Sec. 8. A State Board of Equalization, to consist of the delegates from the district boards mentioned in the next preceding section, together with the Auditor of State, who shall be the President of the State Board, shall meet at Indianapolis on the first Monday in July next succeeding the meetings of the said district boards. Such State Board shall diligently and carefully examine and compare the valuation of real property as reported to them by the chairman of the district boards, with the corrections and changes made therein by the district boards; and it shall be the duty of the said State Board of Equalization, to equalize the appraisement of the lands in this State, between the several Congressional Districts, in conformity to the standard of value and other provisions herein prescribed in relation to the county and district boards of equalization," be and the same is hereby amended to read as follows:

Sec. 8. A State Board of Equalization, to consist of the delegates from the district boards mentioned in the next preceding section, together with the Auditor of State, who shall be the President of the State Board, shall meet at Indianapolis on the first Monday in July, next succeeding the meetings of the said district boards. Such State Board shall diligently and carefully examine and compare the valuation of real property as reported

to them by the chairman of the district boards, with the corrections and changes made therein by the district boards; and it shall be the duty of the said State Board of Equalization to equalize the apportionment [appraise-ment] of the lands in this State, between the several counties and Congressional Districts, in conformity to the standard of value and other provisions herein prescribed in relation to the county and district boards of equalization.

Whereas, the district boards will be required Emergency. to meet prior to the publication and circulation of the laws of this session, therefore an emergency is declared to exist, and this act shall be in force from and after its passage and publication in the Indiana Daily State Sentinel and Indiana Daily State Journal.

NOTE.—Published in Sentinel, March 17, in Journal, March 18, 1859.

CHAPTER XC.

AN ACT to amend the one hundred and third section of an act entitled "an act to provide for the valuation and assessment of the real and personal property, and the collection of taxes in the State of Indiana, for the election of township assessors, and prescribing the duties of assessors, appraisers of real property, county treasurers and auditors, and of the Treasurer and Auditor of State," approved June 21, 1852.

[APPROVED MARCH 5, 1859.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That section one hundred and three of an act entitled "an act to provide for the valuation and assessment of the real and personal property, and the collection of taxes in the State of Indiana, for the election of township assessors, and prescribing the duties of assessors, appraisers of real property, county treasurers and auditors, and of the Treasurer and Auditor of State," approved June 21, 1852, which reads as follows, to-wit:

Sec. 103 amended.

"Sec. 103. The said treasurers shall annually, on the first Monday of August, file with the auditors of their respective counties, schedules of all such delinquent taxes collected by them, verified by their oaths or affirmations, and shall receipt to said auditors for the amount collected for county purposes, and shall pay the amount collected for State purposes into the treasury of the State, or deposit the same to the credit of the Treasurer of State in the nearest bank, if so directed by said Treas-

urer of State; and it shall be the duty of such county auditors to forward certified copies of such schedules forthwith to the Auditor of State," be amended to read as follows:

County treasurers on 15th Oct. to file, etc.

Sec. 103. The said treasurers shall annually, on the fifteenth day of October, provided the same does not come on Sunday, and if so, then on the Monday following, file with the auditors of their respective counties, schedules of all such delinquent taxes collected by them, verified by their oaths or affirmations, and shall receipt to said auditor for the amounts collected for county township and road purposes, and shall pay the amount collected for State, school and sinking fund purposes into the treasury of the State, or deposit the same to the credit of the Treasurer of State in the nearest bank, if so directed by the said Treasurer of State; and it shall be the duty of such county auditors to forward certified copies of such schedules forthwith to the Auditor of State.

Auditors to certify copies, etc.

CHAPTER XCI.

AN ACT to amend the one hundred and forty-third section of an act entitled "an act to provide for the valuation and assessment of the real and personal property, and the collection of taxes in the State of Indiana, for the election of township assessors, and prescribing the duties of assessors, appraisers of real property, county treasurers and auditors, and of the Treasurer and Auditor of State," approved June 21, 1852.

[APPROVED MARCH 4, 1859.]

Sec. 143 amended.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana, That section one hundred and forty-three of said act, which reads as follows, to-wit:*

"Sec. 143. He shall cause a copy of such list to be immediately published for four weeks successively, once in each week, in some newspaper having general circulation in his county, if any there be, or he may have the same printed in hand-bill form, if the same can be done cheaper than to publish the same in a newspaper; otherwise by three copies posted up in public places in each township of his county, to which shall be attached, and in like manner published, a notice that so much of said lands as may be necessary to discharge the taxes, interest and charges which may be due thereon, or due from the owner thereof at the time of sale, will be sold at public auction at the court house in such

county, on the first Monday in January next thereafter," be and the same is hereby amended to read as follows:

Sec. 143. The said auditor shall immediately thereafter make out a copy of said list, and in addition to the description given of said parcel or parcels of land in said duplicate, he shall make out and give a specific description of each and every parcel thereof in said copy of said lists, which copy he shall cause to be immediately published for four weeks successively, once in each week, in some newspaper having general circulation in his county, if any there be, or he may have the same printed in hand-bill form, if the same can be done cheaper than to publish the same in a newspaper; otherwise by three copies posted up in public places in each township of his county, to which shall be attached, and in like manner published, a notice that so much of said lands as may be necessary to discharge the taxes, interest and charges which may be due thereon, or due from the owner thereof at the time of sale, will be sold at public auction at the court house in such county on the first Monday in January next thereafter; and the better to enable said auditor to specifically describe said lands as hereinbefore required, he shall have access to the papers and records of his own and the recorder's office without charge, and if from these a sufficient description cannot be obtained, he shall require the owner or owners of such tract or piece of land or town lot or parcel thereof, by a written or printed notice served on each of said owners, to furnish within ten days thereafter, a survey of said particular tract or piece or parcel of such land or town lot listed as aforesaid to said owner; and if said person or persons shall fail or refuse to furnish said survey or other sufficient and specific designation within the time aforesaid, such auditor shall cause each and every piece or parcel of said land so remaining delinquent and requiring a survey, to be surveyed by the county surveyor or other competent person, the expense of which shall be paid out of the county treasury and taxed up by said auditor against said piece or parcel of land so surveyed, and collected with the tax thereof, which expense shall be a lien thereon in the same manner as the tax against the same.

Auditor to make copy of list and give descriptions of lands.

Publish the same, and that same will be sold on 1st of Jan.

Auditor to have access to his own and recorder's books without charge.

May require owner to furnish descriptions, etc.

SEC. 2. Inasmuch as the appraisers are now engaged in appraising property, and doubts are entertained as to the duties of the several officers under said appraisement law, an emergency exists for the taking effect of this law immediately; therefore this act shall take ef-

Emergency.

fect and be in force from and after its publication in the Indiana Journal and the Indiana State Sentinel, and it shall be the duty of the Secretary of State to furnish each of the county auditors in this State with a copy of this law after its publication as aforesaid.

NOTE—Published in Sentinel March 9, and Journal March 10, 1859.

CHAPTER XCII.

AN ACT to empower Plank Road Companies to sell and convey their real and personal estate.

[APPROVED MARCH 5, 1859.]

Plank road companies may sell property.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That any plank road company organized under the laws of this State, may sell any or all of its real or personal estate upon such terms as a majority of its board of directors may determine, and a conveyance thereof, signed and acknowledged for such company by its president and secretary, shall pass all the right and interest of the company in the property conveyed to the grantee.

Emergency.

SEC. 2. Whereas it is important to one or more companies, that the power herein given should be exercised at once, it is declared that an emergency exists and that this act shall be in force from and after its passage.

CHAPTER XCIII.

AN ACT supplemental to an act entitled "an act to exempt property from sale in certain cases," approved February 17, 1852.

[APPROVED MARCH 5, 1859.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That before any person shall be

entitled to the benefit of the provisions of the above recited act, he shall make out and deliver to the sheriff or other officer having the writ, an inventory of all of his or her real estate, money on hand or on deposit, rights, credits and choses in action belonging to him at the date of the issuing of the writ, or in which he had any interest, and make and subscribe an affidavit to the same that such inventory contains a full and true account of all such property as required in this act to be set out in the said inventory, had or held by him at the time such writ was issued, and if any such property has been disposed of by him since the issuing of the writ, such affidavit shall show that fact, and how the same has been disposed of, and what disposition he has made of the proceeds, and until such inventory and affidavit shall be furnished to such officer, he shall not set apart any property to the execution defendant as exempt from execution.

Persons desiring to exempt property from sale, etc.

Officer shall not set apart goods, until, etc.

SEC. 2. This act shall be in force from and after its passage and publication. *Emergency.*

NOTE—Published March 15, 1859.

CHAPTER XCIV.

AN ACT to repeal "an act to prevent Railroad Companies from changing their depots except on conditions therein named," approved March 4, 1853.

[APPROVED MARCH 5, 1859.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That an act entitled "an act to prevent railroad companies from changing their depots except on conditions therein named," approved March 4th, 1853, be and the same is hereby repealed. *Act repealed.*

CHAPTER XCV.

AN ACT to repeal the fifth section of an act entitled "an act to authorize Railroad Companies to consolidate their stock with the stock of Railroad Companies in this or in adjoining States, and connect their Roads with the Roads of said Companies, and to authorize Railroad Companies to construct their roads on the routes which they have heretofore surveyed and located, and use and occupy the same when completed," approved February 23, 1853.

[APPROVED MARCH 5, 1859.]

5th sec. repealed. SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the fifth section of an act entitled "an act to authorize railroad companies to consolidate their stock with the stock of railroad companies in this or adjoining States, and connect their roads with the roads of said companies, and to authorize railroad companies to construct their roads on the routes which they have heretofore surveyed and located, and use and occupy the same when completed," approved February 23, 1853, be and the same is hereby repealed.

CHAPTER XCVI.

AN ACT authorizing the purchasers of Railroads, Plank Roads, Turnpike Roads and McAdamized Roads, or parts thereof, under mortgaged sale or sales made according to the terms of deeds of trust, to organize as incorporated companies, and prescribing their powers and duties.

[APPROVED MARCH 5, 1859.]

Purchasers of railroad, plank road, under foreclosure to become owners, etc.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That if any railroad, plank road, turnpike road or McAdamized road company has heretofore executed, or shall hereafter execute any mortgage or deed of trust upon the whole or any portion of their road and its appurtenances, upon the foreclosure of said mortgage and a sale under such foreclosure, or a sale under such deed of trust in accordance with the terms thereof, the purchaser or purchasers, at such sale of said road and its appurtenances, or of any part thereof, shall

have the right, by such name as he or they may assume, to hold, own and possess the road, or part thereof so purchased, and to have and enjoy all the rights, privileges, franchises and immunities of said company over said road, or the part thereof so purchased; and such purchaser or purchasers shall, from the time of such purchase, become and be a distinct corporation under the name so assumed, with all the rights, franchises, powers and privileges conferred by the existing charter of said company, or any amendments thereto, so far as the same may be applicable to the road, or the portion thereof so purchased, upon condition that said purchaser or purchasers, within three months from the time of such purchase, proceed to organize such distinct corporation, under such original charter and amendments by creating a stock not exceeding the cost of the construction of said road, or of the part thereof so purchased, and appointing a board of directors equal in number with that prescribed in said original charter and amendments, who shall be governed by said original charter and amendments until superseded by a regular election of directors according to the provisions of said charter and amendments.

If within 3 months
they organize un-
der original char-
ter

SEC. 2. Any association organized under the provisions of this act, shall, within thirty days from the date of such organization, file for record in the office of the recorder of each county into or through which said road, or part thereof so purchased extends, a statement of the road, or part thereof purchased, the date of such purchase, the name of the purchaser or purchasers, the corporate name assumed by said organization, the amount of the capital stock, the number of shares and the names of the holders thereof, and the names of the directors and officers of said company, which statement shall be evidence of the organization of said company.

Statement of or-
ganization to be
filed etc.

SEC. 3. It is hereby declared that an emergency exists for the immediate taking effect of this act, and therefore the same shall be in force from and after its passage.

Evidence of or-
ganization.
Emergency.

CHAPTER XCVII.

AN ACT to amend the first section of act authorizing the construction of Plank, McAdamized and Gravel Roads, approved May 12, 1852.

[APPROVED MARCH 5, 1859.]

Sec. 1 amended. SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the first section of an act authorizing the construction of plank, McAdamized and gravel roads, approved May 12, 1852, which is in the following words:

"Sec. 1. That any number may form themselves into a corporation for the purpose of constructing or owning a plank, McAdamized or gravel road, by complying with the following requirements: They shall write in articles of association, setting forth the name which they assume, the line of the route, and the place to and from which it is proposed to construct the road; the amount of capital stock, and the number of shares into which it is to be divided; the names and places of residence of the subscribers, and the amount of stock taken by each, shall be subscribed to said articles of association. Whenever the stock subscribed amounts to the sum of five hundred dollars per mile of the proposed road, copies of articles of association shall be filed in the office of the recorder of each county through which the road is to pass, and shall from that time be a corporation, known by the name assumed in its articles of association," be and the same is hereby amended to read as follows, to-wit:

Be it enacted by the General Assembly of the State of Indiana, That any number of persons may form themselves into a corporation for the purpose of constructing or owning plank, McAdamized, gravel, clay and dirt roads, by complying with the following requirements: They shall unite in articles of association, setting forth the name which they assume, the line of the route, and the place to and from which it is proposed to construct the road, the amount of capital stock, and the number of shares into which it is divided, the names and places of residence of the subscribers, and the amount of stock taken by each, shall be subscribed to said articles of association. Whenever the stock subscribed amounts to the sum of five hundred dollars per mile of the proposed road, copies of the articles of association shall be filed in the office of the recorder of each county through which the road is to pass, and shall from that time be a corporation, known by the name assumed in [its] articles of association.

Companies to write in articles of association, etc.

Articles to be recorded in each county through which road passes.

Emergency.

SEC. 2. In the opinion of this General Assembly, there is an emergency for the immediate taking effect

of this act; it shall therefore be in force from and after its passage.

CHAPTER XCVIII.

AN ACT to authorize Plank, McAdamized and Gravel Road Companies to consolidate their stock with other similar companies, and to assume a common name, and defining the powers of such consolidated company.

[APPROVED FEBRUARY 23, 1859.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That any plank, McAdamized or gravel road company heretofore organized under the general or special laws of this State, shall have the power to intersect, join and unite their road with any other similar road constructed, or in progress of construction in this State, at such point as may be mutually agreed upon by said companies; and such companies are authorized to merge and consolidate the stock of the respective companies, making one joint stock company of the two roads thus constructed, upon such terms as may be by them mutually agreed upon. Road may join with other road.

SEC. 2. Such consolidated company may assume the name of either of the original companies of which it is composed, and shall possess and enjoy all the powers and privileges conferred upon and possessed by that company whose name is so assumed. To assume name.

SEC. 3. Whereas, an emergency exists for the passage of this act, the same shall take effect and be in force from and after its passage. Emergency.

CHAPTER XCIX.

AN ACT to amend the title and first section of an act entitled "an act authorizing Railroad, Plank Road and McAdamized Road Companies to borrow money, and to secure the re-payment thereof by mortgage," approved February 5, 1852.

[APPROVED FEBRUARY 14, 1859.]

Sec. 1 amended

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the first section of the above entitled act, which section reads as follows:

"SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That each and every railroad, plank road, McAdamized and turnpike road company heretofore incorporated or hereafter to be incorporated within this State, shall have full power and authority from time to time to borrow money upon its own credit, at any rate of interest per annum not exceeding the legal rate of interest allowed by the law of the State where the loans may be negotiated or the money borrowed, to be agreed upon between the parties, for the sole purpose of constructing its road and furnishing materials therefor, with all necessary machinery and fixtures necessary to carry on the operations of such company; and as an evidence of such loans, or for the purchase of materials and necessary machinery on time, may issue its corporate bonds or promissory notes, and to secure the re-payment thereof, with the interest which shall accrue, may mortgage its roads, income and other property, and may, by its president, or other officers or agents, sell, dispose of, or negotiate such bonds, notes or stock of such company, at such times and at such places, either within or without this State, and at such rates, and for such prices, as in the opinion of such company will best advance its interests," be so amended as to read as follows:

Amended to include rolling mill iron manufacturing and bridge companies.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That every railroad, plank road, McAdamized and turnpike road company, all companies for the manufacture of railroad or other iron, and any company for the manufacture of gas to supply light for any city, town or village, and bridge companies organized under the laws of this State, heretofore incorporated or hereafter to be incorporated within this State, shall have full power and authority from time to time to borrow money upon its own credit, at any rate of interest per annum not exceeding the legal rate of interest allowed by the law of the State where the loans may be negotiated, or the money borrowed, to be agreed upon between the parties, for the sole purpose of constructing its roads, and furnishing material therefor, and for the purpose of enabling such manufacturing com-

pany to put their mills in operation, and to carry on such manufacturing business, with all necessary machinery and fixtures necessary to carry on the operations of such company; and as an evidence of such loans, or for the purchase of materials and necessary machinery on time, may issue its corporate bonds or promissory notes, and to secure the re-payment thereof, with the interest which shall accrue, may mortgage its road, income, mills, real estate and other property, and may by its president, or other officers or agents, sell, dispose of or negotiate such bonds, notes, or the stock of such company, at such times and at such places, either within or without this State, and at such rates, and for such prices, as in the opinion of such company, will best advance its interests.

Mortgages, notes,
etc., negotiable
by officers of Co.

SEC. 2. *And be it further enacted*, That the title of said act, which reads as follows: Title amended.

“An act authorizing railroad plank road, turnpike road and McAdamized road companies to borrow money, and to secure the re-payment thereof by mortgage,” be so amended as to read as follows:

An act authorizing railroad, plank road, turnpike road and McAdamized road, all companies organized for the manufacture of railroad or other iron, gas and bridge companies, to borrow money, and to secure the re-payment thereof by mortgage.

SEC. 3. Whereas, there has been a large amount of money expended within this State in the purchase of real estate, and in erecting buildings thereon for the purpose of manufacturing railroad and other iron, by companies organized for that purpose, the stockholders of which are in extreme danger of sustaining heavy losses for the want of a law authorizing them to borrow money, it is hereby declared that an emergency exists for the immediate taking effect of this act: *Therefore*, Emergency.
be it enacted, That this act take effect and be in force from and after its passage.

CHAPTER C.

AN ACT to amend the eighteenth section of an act entitled "an act concerning Real Property. and the alienation thereof," approved May 6, 1852.

[APPROVED MARCH 4, 1859.]

Sec. 18 amended

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the eighteenth section of an act entitled "an act concerning real property, and the alienation thereof," which reads as follows, viz :

"To entitle any conveyance, mortgage, or instrument of writing to be recorded, it shall be acknowledged by the grantor, or proved before any judge, or clerk of a court of record, justice of the peace, recorder, notary public, or mayor of a city in this or any other State, or before any commissioner appointed in any other State by the Governor of this State, or before any minister, charge d' affaires, or consul of the United States in any foreign country," be amended to read as follows, viz :

Instruments to
acknowledged,
etc.

Sec. 18. To entitle any conveyance, mortgage or instrument of writing to be recorded, it shall be acknowledged by the grantor, or proved before any judge, or clerk of a court of record, justice of the peace, auditor, recorder, notary public, or mayor of a city in this or any other State, or before any commissioner appointed in any other State by the Governor of this State, or before any minister, charge d' affaires, or consul of the United States in any foreign country.

CHAPTER CI.

AN ACT in relation to the partition of Real Estate, and supplementary to "an act concerning the partition of lands," approved May 20, 1852.

[APPROVED MARCH 5, 1859.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That in actions for partitions now pending, or hereafter brought, where there are several tracts of land in which a widow is entitled either to an estate for life, or in fee simple, and there are tenants in common with her in all, or any part of said lands, such widow may select and accept any particular tract or parcel of such lands, in one body, in lien of her interest in all or any portion thereof. The commissioners, under the direction of the court, if they deem it just and proper to do so, may assign and set off to such widow, the tract or parcel so selected by her as, and for her interest in the whole of said lands, or in such part thereof as may be equal in value to the interest of such tenants in common in such selected tract. All persons legally or equitably interested in all or any tract or parcel of the realty of which the husband died seized, and of which the widow claims partition, must be made parties whether each is interested in all the tracts or not, and the partition thereof may be made in the same action.

Actions pending for partition.

Widow may make selection of land in body.

Commissioners to set it off.

What persons made parties, etc.

CHAPTER CII.

AN ACT to provide for the partition of Real Estate, and for laying the same off into lots, out-lots, streets and alleys, and for the sale thereof, and also to provide when the same shall take effect.

[APPROVED MARCH 4, 1859.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That in all cases where proceedings are now pending, or may hereafter be commenced in any of the courts of this State for the partition of real estate, in which any minor is a party in interest, the commissioners appointed to make such partition are

Pending actions for partition where minors are interested.

Commissioners
to lay off, etc.

hereby authorized to lay off into lots or out-lots, streets and alleys, any lands included in such partition, and to make a plat thereof, which shall be reported to the court for approval or rejection. If confirmed by the court, such plat shall be acknowledged by such commissioners in open court, and shall be recorded as other plats of like nature are recorded, and shall have the same validity in law as if made by a legal proprietor of such lands, of full age. It shall be the duty of the court to determine in such cases, upon the return of such plats by said commissioners, whether it will be for the interest of the parties that such land should be laid off into lots, or out-lots, streets and alleys, and if so, then partition may be made thereof by said commissioners as in other cases if practicable, without detriment to the parties interested; and if the same shall not be susceptible of partition, then said lots, or out-lots, may be sold by order of the court, as in other cases.

Court to deter-
mine if such lots
be so laid off.

Lots may be sold
by order of court.

Emergency.

SEC. 2. That as partition suits are now pending in the courts of this State which should be disposed of before this act would take effect, if published in the ordinary mode, it is therefore declared that an emergency exists for it to take effect from and after its passage.

CHAPTER CIII.

AN ACT to provide for transferring Real Estate for taxation on the books of County Auditors, and preserving the chain of title thereof in the Recorder's office in certain cases therein provided for.

[APPROVED MARCH 5, 1859.]

Action for parti-
tion.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That in all actions for partition of real estate, in any court of this State, and in all other cases where the transfers to the parties entitled thereto are made by judgment only, and not by deed, the clerk shall make out a transcript of such judgment showing the transfer aforesaid, under his hand and the seal of the court ordering the same, and deliver the same to the Auditor of the county wherein such real estate is situate, who shall forthwith make the proper entries upon his transfer book, and note such transfer as in

Transfers how
made.

other cases, upon the back of such transcript, and shall thereupon deliver the same to the recorder of such county, who shall record the same in the record of deeds in his office. And the said clerk, auditor and recorder, shall each receive for such services from the person entitled to said real estate, such fees as they are now by law entitled to receive for similar services, which shall be taxed by the court rendering such judgment, as part of the costs of such proceedings as may result in the same: *Provided, however,* That there shall be no more *Provide.* than one transcript of any such judgment made out and recorded as aforesaid in any case whatever.

CHAPTER CIV.

AN ACT to amend the first section of an act entitled "an act concerning Real Property, and the alienation thereof," approved May 6, 1852.

[APPROVED MARCH 2, 1859.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That section first of an act entitled "an act concerning real property, and the alienation thereof," approved May 6, 1852, which reads as follows, to-wit: *Sec. 1 amended.*

"That no person except a citizen of the United States, or an alien who shall be at the time a *bona fide* resident of the United States, shall take, hold, convey, devise or pass by descent lands, except in such cases of descent or devise as are provided by law," be amended so as to read as follows:

That no person except a citizen of the United States, or an alien who shall be at the time a *bona fide* resident of the United States, shall take, hold, convey, devise or pass by descent, lands, except in such cases of descent or devise as are provided for by law; *And, provided further,* that the marriage of a woman with an alien, and her residence with her husband in a foreign State or country, shall not bar her right to hold, convey, devise and pass by descent, lands which may have come to her by descent or purchase. *Who may hold real estate.*

CHAPTER CV.

AN ACT to provide for the relief of purchasers of Real Estate at Sheriff's sales under executions issued on judgments against sureties on forfeited recognizances where such recognizances had been taken after the Revised Statutes of 1852 took effect, and where such sureties, being the owners of such Real Estate, had sold and conveyed the same after becoming such recognizers, but before judgments of forfeiture thereof had been taken.

[APPROVED MARCH 5, 1859.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That any purchaser of real estate at any sheriff's sale under an execution issued on a judgment against a surety on a forfeited recognizance, where such recognizance had been taken after the Revised Statutes of 1852 took effect, and where such surety, being the owner of such real estate, had sold and conveyed the same, and received the pay therefor in good faith, without any intention to avoid the payment of the forfeited recognizances, or any part thereof, after becoming surety on such recognizance, but before judgment of forfeiture thereof had been taken, may have the purchase money paid by him for such real estate at such sale, refunded, by filing a petition therefor in the court where such judgment was rendered, setting forth the facts in his case. No summons need be issued, but it shall be the duty of the prosecuting attorney, or some attorney to be appointed by the court, to appear in behalf of the school fund, and make a proper defence. If the finding or verdict of the court or jury trying the case, be in favor of the plaintiff, the court shall order the clerk to pay over to the plaintiff the amount received by him from the sheriff, less the costs necessarily expended in and about such sale, and less the costs of the plaintiff's proceeding. This act is not intended to apply to cases where the money has been paid into the school fund.

May have money refunded in certain cases.

Defense in the case to be made by proc. att'y.

Clerk to pay money to plaintiff.

Not to apply, etc.

Filing petition sufficient notice.

Judgment against recognizers, etc.

SEC. 2. The filing of the petition shall be sufficient notice to the clerk, and he shall not thereafter, pay the money in question to the county treasurer until the case is disposed of adversely to the plaintiff.

SEC. 3. In every case where relief is granted under the provisions of this act, the judgment against the recognizers shall stand in full force and unsatisfied, as to

the amount gained by the plaintiff to the sheriff at such sale.

SEC. 4. This act is hereby declared to be one of emergency, and shall be in force from and after its passage. Emergency.

CHAPTER CVI.

AN ACT for the relief of the heirs at law of John Coran, deceased, and to vest in them certain real estate which has escheated to the State.

[APPROVED MARCH 4, 1859.]

WHEREAS, it is represented to this General Assembly Preamble. that in the year 1834, John Coran, late of Tippecanoe county, in this State, departed life devising the greater part of his personal, and all of his real estate to his wife, Jane Coran, who was his third wife, and by whom he had no children, and who afterwards died intestate, without issue and without any legal heir whatever; in consequence whereof, said real estate acquired under the will of John Coran, escheated to the State of Indiana; AND WHEREAS, the said John Coran had, at the time of his death, children surviving by two former marriages, who, but for said will would have inherited said real estate; AND WHEREAS, the State of Indiana is not willing to hold said real estate in exclusion of the said children and heirs-at-law of John Coran, but is desirous of vesting in them her interest in the same; therefore,

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* Property of John Coran, etc. That the title of the State of Indiana, in and to the said real estate whereof Jane Coran died seized, and which she had acquired by and under said last will of John Coran, deceased, be and the same is hereby conveyed, confirmed to, and vested in the sons and daughters of said John Coran, and the descendants of such of them as are deceased, their heirs and assigns forever, as fully and effectually, and in the same manner as the same would have been vested in them had said John Coran died intestate; and the title and interest of the State of Indiana, in and to said real estate, and such of the profits and issues thereof as have not heretofore

been collected by the State, are hereby relinquished and conveyed to said children and heirs-at-law of John Coran, their heirs and assigns forever.

CHAPTER CVII.

AN ACT for the relief of John M. Shirey.

[APPROVED MARCH 5, 1859.]

Preamble.

WHEREAS, John M. Shirey, of Delaware county and State of Indiana, is the equitable owner of the north-west quarter of section sixteen in township nineteen north, of range nine east, the same being a part of the school section of Salem township in said county; AND WHEREAS, the said land above described, was sold to one James Windsor by the school commissioners of said county, and received from the said commissioners a certificate of the purchase of the same, and the said Windsor afterwards sold and assigned said certificate to one David M. Strickler, and the same was sold and assigned by the said Strickler to one Elizabeth Yount, and by her assigned to Joseph Shirey, and by him to the said John M. Shirey; AND WHEREAS, the full amount has been paid to the school fund for the said land; AND WHEREAS, no deed has ever been made to any of the parties by the auditor of the county in consequence of the various assignments of the certificate of purchase not being acknowledged according to law; AND WHEREAS, two of the assignors of said certificate are now dead, a title cannot be produced for said land from the auditor of the county without a special act from this Legislature; therefore,

Auditor of Delaware co., etc.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the auditor of Delaware county be, and is hereby authorized and empowered to make, acknowledge and deliver to John M. Shirey, a deed for the lands described in the preamble of this act.

Emergency.

SEC. 2. Whereas an emergency exists for the immediate taking effect of this act, it is declared to be in force from and after its passage.

CHAPTER CVIII.

AN ACT for the relief of Peter Shultz, of Greene County, and releasing to him the interest which the State holds in certain lands.

[APPROVED MARCH 3, 1859.]

WHEREAS, it is represented to this General Assembly Preamble. that Charles William Reubens, late of Greene county, in said State, in the month of January, 1849, emigrated to the United States from the Kingdom of Prussia, and on the 10th day of February, 1849, declared his intention to become a citizen of the United States; AND WHEREAS, on the 26th day of March, 1849, said Reubens purchased from one Martin Wines, in said county of Greene, the following real estate situate in said county of Greene, to-wit: the west half of the south-west quarter, and the east half of the south-east quarter, all in section twenty-one, in township seven north, of range seven west; also, the west half of the south-west quarter of section twenty-two, in township seven north, of range seven west, containing in all two hundred and forty acres, and paid said Wines for the same, \$2,600, and said Wines executed to him a deed for the same; AND WHEREAS, said Reubens, a short time after the purchase and conveyance of said lands, to-wit, in the month of May, 1849, returned to said Kingdom of Prussia, and has continued to reside in said Kingdom ever since said time, though he still exercised control over said land by means of an agent residing in said county of Greene, until the month of May, 1858, when he sold and conveyed said land to Peter Schultz, a citizen of the United States, for the sum of twenty-five hundred dollars, which purchase was made, and money paid by said Schultz in good faith; AND WHEREAS, said lands have never been adjudged to have escheated to the State of Indiana,

SECTION 1. *Therefore, be it enacted by the General Assembly of the State of Indiana,* Title of certain lands, etc. That the title to said tracts of land above described, be and the same is hereby confirmed to, and vested in the said Peter Schultz, his heirs and assigns forever, and all the title of the State of Indiana, in and to said lands, is hereby relinquished to said Peter Schultz, his heirs and assigns forever.

CHAPTER CIX.

AN ACT for the relief of Jane Walker.

Preamble.

[APPROVED MARCH 3, 1859.]

WHEREAS, it has been represented to this General Assembly that Henry George Ford, late of the county of Vanderburgh, and State of Indiana, died in 1854 seized of certain real estate in said county hereinafter described, and that Henry G. Ford, at the time of his death, had no relatives in the United States who could take said real estate by devise or descent; AND WHEREAS, Jane Walker, sister of said deceased, and wife of Thomas Walker, has, with her said husband, become a resident of the United States, and her said husband has declared his intention to become a citizen thereof; AND WHEREAS, it also appearing that since the death of the said Henry G. Ford, no other of his relatives have ever become residents of the United States, therefore, and to release all the right, title and interest of the State in and to certain lands herein named,

Certain lands
vested in Jane
Walker.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That all the estate, right, title and interest of the State of Indiana acquired by escheat by the death of said Henry G. Ford in and to the following lands, to-wit: the north-east quarter of the north-west quarter of section No. eighteen, (18) in township No. six, (6) south of range No. nine, (9) west; also the south-east quarter of the north-west quarter, and ten acres in the north-east corner of the south-west quarter of the section, township and range aforesaid in said county of Vanderburgh, and of which, said Henry G. Ford died seized, is hereby released to, and vested in the said Jane Walker in fee.

Emergency.

SEC. 2. It is hereby declared that an emergency exists for the immediate taking effect of this act; it is therefore enacted that this act shall be in force from and after its passage.

CHAPTER CX.

AN ACT for the relief of the lessees from the State, of the water power and other privileges on the Northern division of the Central Canal, authorizing suits upon the bond of Francis A. Conwell, and others, for their benefit, and to subject the property conveyed to said Conwell by the State, to the payment of the damages sustained by said lessees, their heirs, executors, administrators and assigns, by the breach of the conditions of said bond.

[PASSED MARCH 9, 1859.]

WHEREAS, in pursuance of an act of the General Assembly, entitled "an act to authorize the Governor of Indiana to compromise with, and cause suit to be brought against the lessees of the water power of the Northern division of the Central Canal," approved January 19, 1850, and "an act to authorize the sale of the Northern division of the Central Canal," approved January 21, 1850, and "a joint resolution on the subject of the sale of the Northern division of the Central Canal," approved February 7, 1851, and "an act to incorporate the Central Canal Manufacturing, Hydraulic and Water Works Company," approved February 13, 1851, the right, title and interest of the State in and to that portion of the Northern division of the said Central Canal north of Morgan county, was sold and conveyed to Francis A. Conwell, assignee of George G. Shoup, James Rariden and John S. Newman, the purchasers thereof from the State; and all the rents which should become due after the sale of said property, and the water power and appurtenances thereunto belonging; and all the right, title, interest, claim and demand which the State might hold or possess in such portion of said canal, including its banks, margins, tow-paths, side-cuts, feeders, basins, right of way, dams, water power, structures, and all the appurtenances thereunto belonging, by a deed of conveyance from said State, bearing date the 30th day of June, 1851; a bond having been executed by said Conwell and others to said State, in the penalty of \$100,000, in pursuance of the provisions of said acts, approved by the Governor, conditioned to indemnify the State forever thereafter against all damages, claims or demands which the said State might be subjected to, or liable for, on account of any

Preamble.

deficiency in the supply of water to the lessees of the State, their heirs or assigns, on said portion of said canal, during the continuance of their respective leases; **AND WHEREAS**, it is provided in the 9th section of the said act, to incorporate the Central Canal Manufacturing, Hydraulic and Water Works Company, that the lessees from the State upon said canal should have the right to sue such assignees in any court of competent jurisdiction, for any damages they might sustain from the neglect or failure of said assignees to furnish them water, or do any other thing the State had agreed to do. And it is also provided in the 10th section of the said last mentioned act, that the property so conveyed to said assignee should be forever held and bound for the faithful performance of the conditions of said bond, for the benefit of the lessees, and all other persons interested; **AND WHEREAS**, it is represented that the lessees and assignees of said lessees have not been supplied with water according to the terms of the several leases granted by the State, and that the said Conwell and his assigns have failed to comply with the stipulations contained in said leases, on the part of the State to be complied with; that the obligors in said bond are either insolvent, dead, or non-residents of the State of Indiana, that process cannot be served upon them, and that the parties aggrieved are without adequate remedy; therefore,

Bond of F. A. Conwell declared in trust for lessees.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the said bond, so as aforesaid executed to the State by the said Francis A. Conwell and others, conditioned as aforesaid, be and the same is hereby declared to be in trust, and for the use and benefit of the said several lessees of the State, them, and each of their heirs, executors, administrators and assigns, and be as obligatory and effectual as if the same had been so expressed.

Suit may be brought upon said bond.

SEC. 2. Any such lessee or lessees, his, her, or their executors, administrators or assigns, may sue upon such bond from time to time, in the name of the State of Indiana, on his, her, or their relation, for any breach or breaches of the condition of said bond, and recover the damages that he, she, or they have sustained, or may sustain by reason of such breach; and may also, in the same suit, or in a separate suit or suits, proceed against the property so as aforesaid conveyed to said Conwell,

to subject the same to the payment of the said damages with costs of suit.

SEC. 3. In the proceedings herein contemplated to be instituted upon said bond, or against said property, it shall not be necessary to allege or prove that the State has been damnified; *Provided, however,* That if upon any sale of said canal and its appurtenances to the said lessees from the State, their heirs or assigns, under proceedings instituted under the provisions of this act, the State shall be absolutely and forever released from all liability to said lessees, their heirs and assigns; and should the same be sold to any other party or person, then the State shall be released from all such liability up to the time of the judgment or decree under which such sale shall be made. In said actions the lessees shall be charged with all rent due and unpaid. The purchaser or purchasers shall execute to the lessees and the State of Indiana, and deliver to the clerk of said court a bond, with surety to the satisfaction of said court, conditioned to keep the canal in repair, and supply the same with water in the manner required by the original contract between the lessees and the State, and to indemnify the State forever thereafter against all damages, claims or demands which the State may be subject to, or liable for, on account of any deficiency in the canal or in the supply of water, to such lessees, their heirs or assigns.

In suits upon said bonds, etc.

Proviso.

Lessees to be charged with unpaid rent.

Purchasers to give bond, etc.

Indemnify the State, etc.

SEC. 4 There being no law in force affording remedy to the persons claiming to be aggrieved by the alleged failure of said Conwell and his assignees to comply with the conditions of said bond, it is hereby declared that an emergency exists for the immediate taking effect of this act; therefore, the same shall take effect and be in force from and after its passage.

Emergency.

CHAPTER CXI.

AN ACT to compell Supervisors of Road Districts within the limits of incorporated towns, to work the same under the direction of the town council.

[APPROVED MARCH 3, 1859.]

Roads within incorporated towns, etc.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That whenever any road district, or any part thereof, shall lay within the limits of any incorporated town in this State, the supervisors of such districts, in working such portion of such road districts as may lay within the limits of such incorporated towns, shall work the same according to the plan, and under the directions of the council of such town.

Emergency

SEC. 2. It is declared that an emergency exists for the immediate taking effect of this act, and that the same shall be in force from and after its passage.

CHAPTER CXII.

AN ACT to prohibit the collection of tolls on Gravel, Turnpike, McAdamized and Plank Roads, in certain cases, and to provide the mode of declaring charters of such roads forfeited in certain cases, and repealing all laws inconsistent therewith.

[APPROVED MARCH 5, 1859.]

Toll on plank, McAdamized, gravel roads, etc. may not be paid when road is not kept in proper repair.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That hereafter, whenever any gravel, turnpike, McAdamized or plank road shall be suffered to get and remain out of repair for a longer period of time than would be required to make the necessary repairs with a reasonable force, the season of the year and other equitable circumstances considered, the corporation or company, owner or owners of such road shall not be entitled to receive and collect toll upon such road or upon so much of the same as is out of repair, while the same shall remain out of repair, and it shall be lawful in any suit for the collection of toll or any penalty for failure to pay such toll, for the defendant to plead such want of repair in bar of said suit.

SEC. 2. In all cases where any road specified in the above section shall be suffered to get and remain out of repair, so as to be inconvenient for the public travel, for the space of six months or more at any one time, and if the same is not being repaired, it shall be lawful for any voter of any county through which the road, or any part thereof may run, to file a complaint with the clerk of the court, verified by his oath or affirmation, setting forth that the road, (describing it,) or so much of the same as lies within the county in which he resides, is out of repair, and has so been for the last six months, and that the same is not being repaired, and that he has no good reason to believe that such repairs will be speedily made.

When out of repair six months, complaint to be filed with clerk of court.

SEC. 3. The clerk, with whom such complaint may be filed, shall issue a notice setting forth all the material allegations alleged in the complaint; also state at what term of the court the complaint will be heard, whether in the common pleas or circuit court, at the option of the complainant, which notice shall be served by the sheriff of the county on the president or secretary, or treasurer of the corporation or company, or upon one of the board of directors, or upon the person or persons owning such road, at least ten days prior to the term of the court to try the same, if such defendant or defendants shall reside within the county; and if neither of such defendants reside within the county, then the clerk shall cause such notice to be published in some newspaper of the county, at least three weeks prior to the term of the court to try the same, and if there be no newspaper published in the county, then the same shall be published in the paper published nearest thereto.

Clerk to give notice when complaint will be heard, etc.

SEC. 4. The complainant and defendant or defendants, may have the necessary process for any witness or witnesses to testify in the case.

May summon witnesses.

SEC. 5. The court before whom any case under the provisions of this act may be heard, shall, after hearing all the proofs and allegations, and being fully advised as to all the material facts in the case, declare if in the opinion of the court or the jury trying the same, the road has been suffered to get and remain out of repair, so as to come within the provisions of the second section of this act, that all the rights and immunities which the defendant or defendants may have, by virtue of any charter granted, or under any act of incorporation of this State, forfeited; *Provided, however, such forfeiture*

If complaint is sustained, court to declare rights of road forfeited.

Proviso.

Forfeiture not to affect any previous right, suit, liability, etc.

Forfeiture of road or part, to be deemed a vacation, unless it be a public highway.

Appeal may be taken to Supreme Court.

Costs, by whom paid.

Repealing clause.

shall only apply to so much of said road lying in such county as has been proven to be out of repair, as set forth in the second section of this act; *And be it further provided*, that in all cases where the court or jury shall declare a forfeiture under the provisions of this act, such forfeiture shall in no wise affect any right, contract, suit or liability, which existed prior to such forfeiture; but the same shall have the same force and effect as though such forfeiture had never been decreed.

SEC. 6. Whenever any forfeiture of chartered or incorporated rights shall be declared, under the provisions of this act, it shall be held to be a vacation of so much of said road as may be declared forfeited; *Provided*, the grounds upon which such road was located was not a public highway prior to the location of such road; in which case, the same shall be deemed a public highway, and be worked as all other highways.

SEC. 7. In all cases under the provisions of this act, when either party feels aggrieved by the judgment of the court, he or they shall have the right of appeal to the supreme court as in ordinary civil cases.

SEC. 8. The court, in all suits under the provisions of this act, shall order the costs necessarily accrued therein, to be paid in whole or in part by such party as justice shall require.

SEC. 9. All laws inconsistent with the provisions of this act, are hereby repealed.

CHAPTER CXIII.

AN ACT to amend the first section of "an act in relation to Plank, McAdamized, Tram and Gravel Road Companies," approved March 1, 1855, and supplemental thereto, so as to enable corporations or companies to take possession of unfinished portions of said road and complete the same, where the original corporation has failed to complete it; to prevent any company or corporation, when about to abandon said road, from removing any material used in its construction, providing for enjoining the removal of the same, and to provide for the making of such abandoned road.

[APPROVED MARCH 5, 1859.]

¹ amended. SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That section one of "an act in

relation to plank, McAdamized, tram and gravel road companies," approved March 1, 1855, which reads as follows:

"That corporations of any plank road, McAdamized or gravel road, may, by a vote of the stockholders, discontinue any part of the road by them made, and sell any part of the material by them placed upon said road in constructing the same." be amended to read as follows:

SEC. 1. That corporations of any plank road, McAdamized or gravel road may, by a vote of the stockholders, discontinue any part of the road by them made.

Part of road may be discontinued.

SEC. 2. That where any company or corporation, by virtue of any charter or law of this State, shall have constructed or built, or shall hereafter construct or build any plank, McAdamized or gravel road, upon any part of the road running through this State, denominated the Michigan Road, or upon any county or State road, shall have failed for ten years from the time of filing their articles of association in the proper office, or from the time of commencing work thereon, to complete and occupy the whole of their said line of road, then, and in that case, the uncompleted and unoccupied part thereof may be appropriated by any other corporation or company under such laws as may be in force at the time.

When work not completed in ten years, other corporation may take it.

SEC. 3. Whenever any such company or corporation, having obtained their right of way upon any such parts of the Michigan Road, State or county roads, or any public highway, shall have abandoned, or shall be about to abandon, the whole, or any part of their respective roads, they shall not have the right, neither by themselves, their agents nor employees, nor shall any other person, to remove any valuable or other material used in the construction, or having been used in the construction thereof, from the line of said road or from the bed thereof.

When company abandoning road, shall not remove any valuable property used in its construction.

SEC. 4. All such abandoned or neglected roads shall immediately thereafter be taken charge of, and worked as highways or public roads, under such laws as may be in force at the time for the care of highways.

Abandoned roads to be used as highways.

SEC. 5. Any such company, corporation, agent, employee, or other person violating, or attempting to violate the provisions of section second of this act, may be enjoined by any supervisor or other person charged with the care of public highways.

Any person violating, etc.

CHAPTER CXIV.

AN ACT relative to the salaries of public officers, and providing the manner of paying the same, and the manner of reimbursing the State for an increase of salaries.

[APPROVED MARCH 5, 1859.]

Salaries of Public officers.

SECTION. 1. *Be it enacted by the General Assembly of the State of Indiana*, That there shall be allowed to the several officers of Government, and persons hereinafter mentioned, the following annual salaries, to be paid quarterly out of any moneys in the treasury belonging to the general fund, and not specially otherwise appropriated by law :

- Governor.** *First.* To the Governor, three thousand dollars.
- Treas. of State.** *Second.* To the Treasurer of State, three thousand dollars.
- Aud. of State.** *Third.* To the Auditor of State, two thousand five hundred dollars.
- Sec. of State.** *Fourth.* To the Secretary of State, two thousand dollars.
- Pres't. of Sinking Fund.** *Fifth.* To the President of the Sinking Fund, three thousand dollars, to be paid out of the Sinking Fund.
- Gov.'s Private Sec.** *Sixth.* To the Governor's Private Secretary, five hundred dollars.
- Sup't Public Instruction.** *Seventh.* To the Superintendent of Public Instruction, thirteen hundred dollars.
- State Librarian.** *Eighth.* To the State Librarian, eight hundred dollars.
- Sup't Insane.** *Ninth.* To the Superintendent of the Insane, twelve hundred dollars.
- Sup't D. and D.** *Tenth.* To the Superintendent of the Deaf and Dumb, one thousand dollars.
- Sup't Blind.** *Eleventh.* To the Superintendent of the Blind, eight hundred dollars.
- Warden State Prison.** *Twelfth.* To the Warden of the State Prison, fifteen hundred dollars.
- Moral Instructor.** *Thirteenth.* To the Moral Instructor of the State Prison, eight hundred dollars.
- Physician.** *Fourteenth.* To the Physician of the State Prison, eight hundred dollars, to be paid out of the proceeds of the Prison.
- Adj. and Quarter Master Gen.** *Fifteenth.* To the Adjutant and Quarter-Master Generals, each, twenty-five dollars.

Sixteenth. To the Judges of the Supreme Court, each, Judge S. Court. two thousand dollars.

Seventeenth. To the Judges of the Circuit Court, each, Judge C. Court. fifteen hundred dollars.

Eighteenth. To the Prosecuting Attorneys, each, five Pros. Att'ys. hundred dollars.

Nineteenth. The Auditor of State is hereby authorized to employ two clerks, at one thousand dollars each per annum, and one clerk at six hundred dollars per annum; the Treasurer of State, one clerk at eight hundred dollars per annum, and the Secretary of State, one clerk at eight hundred dollars per annum. Clerks for Aud. Treas. and Sec. of State.

SEC. 2. The salaries allowed in section first, except the Physician of the State Prison, and the President of the Sinking Fund, shall be paid upon the warrant drawn by the Auditor of State, on the first day of January, April, July and October in each year; and those of said Physician and President of the Sinking Fund, shall be paid on said days, out of their proper funds, as in said first section specified. Physician of State Prison and Pres't of Sinking Fund, how paid.

SEC. 3. The said officers shall receive no other compensation, whatever, but each shall collect and account to the Auditor of State for, and pay into the State Treasury, every fee, emolument, perquisite, salary and gratuity of every kind that he may receive, or that may arise or accrue in any manner in his official duties, or out of his official business; and each of said officers is required to keep a strict account of all moneys so received, and pay the same into the treasury at the end of every three months; *Provided, however,* That each prosecuting attorney may recover from the defendant, in every successful prosecution, the fees prescribed by law, but shall in no manner receive such fees from the State; *Provided, also,* That all fees, emoluments, perquisites, &c., that may be received by the said Sinking Fund Commissioners, shall be paid into the said Sinking Fund. Officers to receive no perquisites, except pros. atty.

SEC. 4. For the purpose of reimbursing the State and the several counties against the expense of the judiciary, it is further enacted, that in every civil action of any description, in any court of common pleas, or circuit court, or case on appeal from a justice of the peace, or board of county commissioners to such courts, or making a confession of judgment in said courts, a docket fee of one dollar shall be taxed with the other costs, and recovered from the losing party. Docket fees.

SEC. 5. In every case of appeal from either of said courts, or from a judge in vacation, to the Supreme

Court, a docket fee of four dollars shall be taxed with the other costs, and recovered from the losing party.

SEC. 6. Each clerk of the circuit or common pleas courts, within thirty days after the collection of the same, shall pay to the treasurer of his county, all docket fees received by him on account of the business of said courts, and shall take his receipt therefor, and the treasurer shall hold the fees received from the common pleas court, for the use of the county, and shall pay those received from the circuit court into the State Treasury, at his annual settlement for State revenue.

To be paid to
State Treas.

SEC. 7. The clerk of the Supreme Court shall, within thirty days after the collection of the same, pay into the Treasury of State, all docket fees received by him on account of the business of said court, and take a receipt therefor.

Clerk of Supreme
Court, duty of.

SEC. 8. No docket fee shall be charged in cases of bastardy, surety of the peace, or writs of habeas corpus, nor in any action prosecuted by any plaintiff as a poor person, in the manner prescribed by law, nor upon claims filed in the court of common pleas against decedents' estates.

When docket fee
not charged.

SEC. 9. The law heretofore providing for a docket fee in the common pleas court, is hereby repealed; but this act shall not be taken as a repeal of any law providing for the payment of fees, clerk hire or salaries paid by other persons or corporations, than the State to State officers, but such fees shall be collected by the respective officers, and paid into the State Treasury, as provided by this act.

Law repealed
and not repealed.

CHAPTER CXV.

AN ACT to extend the time of payment to purchasers of Saline and School Lands.

[APPROVED MARCH 5, 1859.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana, That the time of final payment be extended to all purchasers of saline lands, for the additional term of four years, at the option of the purchaser or purchasers, their heirs and assigns, to all purchasees*

Time to purcha-
sers, etc.

made previous to the close of the year one thousand eight hundred and forty-seven.

SEC. 2. And all persons indebted for any portion of the purchase money due on the sale of any sixteenth section of school lands, who shall desire to avail themselves of the benefit of this act, shall, before being entitled to the same, pay over to the proper officer, the interest for one year in advance, and also, all other interest which shall, or may have become due, at the same rate that said officer is authorized to loan moneys belonging to the school fund; and the debtors for saline lands shall, in like manner, pay over to such officer, one year's interest, each year in advance on the amount due.

Interest for one year to be paid in advance.

SEC. 3. Such lands, and the improvements thereon, shall be subject to taxation the same as other lands, and the interest of the purchaser, his heirs and assigns therein, shall be subject to sale for non-payment of taxes, the same as other lands of the State; but the tax deed shall only convey the interest of said purchaser, his heirs and assigns, to the purchaser under the sale for taxes, and entitle him, his heirs and assigns, to demand and receive a patent therefor on the final payment of whatever may remain unpaid of the original purchase money, and all interest due thereon.

Lands subject to taxation same as other lands.

SEC. 4. This act shall take effect and be in force from and after its passage.

Emergency.

CHAPTER CXVI.

AN ACT supplemental to an act entitled "an act for the incorporation of High Schools, Academies, Colleges, Universities, Theological Institutions and Missionary Boards," approved Feb. 28, 1855.

[APPROVED MARCH 5, 1859.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana, That* nothing in the act to which this a supplement, shall be so construed as to prevent individuals from associating themselves for academic or collegiate purposes according to the main provisions of this act, constituting themselves and their successors trustees and receiving voluntary donations, which shall not entitle the donor to vote in the management of the school or college.

This act how not to be construed.

Church or Society holding lands, &c.

SEC. 2. Any church or religious society holding lands and property not divided into shares, may elect or appoint six or more of its members trustees, according to its rules and usages, which trustees may purchase and hold in trust such property, and other property for such purposes, and to receive gifts and donations for the same, and they shall have such power to manage such institution as is conferred on trustees otherwise provided for in the above entitled act to which this is a supplement, and they shall be subject to the advice and control of the church or religious society making their appointment or election, and their term of service shall be as provided in said act.

Emergency.

SEC. 3. It is hereby declared that an emergency exists for the immediate taking effect of this act; it shall, therefore, take effect and be in force from and after its passage.

CHAPTER CXVII

AN ACT to amend the 4th, 27th, 107th and 143d sections of an act entitled "an act to provide for a general system of Common Schools, the officers thereof, and their respective powers and duties, and matters properly connected therewith, and to establish Township Libraries, and for the regulation thereof," and repealing all laws and parts of laws coming in conflict with this act.

[APPROVED MARCH 5, 1859.]

Sec. 4 amended.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That section four of an act entitled "an act to provide for a general system of common schools, the officers thereof, and their respective powers and duties, and matters properly connected therewith, and to establish township libraries, and for the regulation thereof, approved March 5, 1855, which reads as follows:

"Sec. 4. Each civil township in the several counties in this State is hereby declared a township for school purposes, and the trustees for each township trustees for school purposes, and their clerk and treasurer shall be clerk and treasurer for school purposes," be amended to read as follows:

Civil townships declared school townships.

Sec. 4. Each civil township in the several counties in this State is hereby declared a township for school

purposes, and the trustee for such township shall be trustee, treasurer and clerk for school purposes.

SEC. 2. And that section twenty-seven of said act, Sec. 27 amended which reads as follows:

"Sec. 27. The schools in each township shall be taught an equal length of time, without regard to the diversity in the number of pupils at the several schools," be amended to read as follows:

Sec. 27. The trustees of the several townships shall, Money how to be apportioned on the first Monday of June in each year, determine and apportion the public moneys in his township for school purposes, amongst the schools thereof, so that each school be taught an equal length of time as near as practicable, without regard to the diversity in the number of pupils at the several schools.

SEC. 3. And that section one hundred and seven of said act, which reads as follows: Sec. 107 amended.

"Sec. 107. The township trustees shall, in every case in which a majority of the inhabitants attached to any school have designated the teacher they wish employed, employ the same if he or she can be had on reasonable terms; and in no case shall such trustees employ any teacher whom a majority of the inhabitants attached to any school house decided they do not wish employed; and when at any time after the commencement of any school, if a majority of the inhabitants petition said trustees that they wish such teacher dismissed, such trustees shall dismiss him, but such teacher shall be entitled to pay for all services rendered," be amended to read as follows:

Sec. 107. The school directors shall, in every case Directors to employ teachers; may dismiss him in which a majority of the inhabitants attached to any school have designated the teacher they wish employed, employ the same on the terms that such inhabitants do direct, and at any time after the commencement of any school, if a majority of the inhabitants petition said directors that they wish such teacher dismissed, such directors shall dismiss him, but such teacher shall be entitled to pay for all services rendered, on the order of the school director, and it is hereby made the duty of the director to give the teacher, in all cases, an order on the township treasurer for the amount due such teacher, and to carry out all orders of the said inhabitants. Directors to give order on treasurer for teacher's pay.

SEC. 4. And that section one hundred and forty-three of the aforesaid act, which reads as follows: Sec. 143 amended.

"Sec. 143. An appeal shall lie from the decision of the township trustees to the State Superintendent, whose decision shall be final," be amended to read as follows:

Sec. 143. An appeal shall lie from the decision of Appeals. the township trustee, or the township officer having

charge of the common schools or the school fund to the county auditor, whose decision shall be final.

Repealing clause. SEC. 5. All laws and parts of laws coming in conflict with the provisions of this act, be and the same is hereby repealed.

CHAPTER CXVIII.

AN ACT to amend the 49th section of an act entitled "an act to provide for a general system of Common Schools, the officers thereof, and their respective powers and duties, and matters properly connected therewith, and to establish township libraries, and for the regulation thereof," approved March 5, 1855, and to legalize the acts of certain officers therein named.

[APPROVED MARCH 2, 1859.]

Sec. 49 amended. SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That section forty-nine of an act entitled "an act to provide for a general system of common schools, the officers thereof, and their respective powers and duties, and matters properly connected therewith, and to establish township libraries, and for the regulation thereof," approved March 5, 1855, which is in the following words, to-wit:

"Sec. 49. Assignments of certificates of purchase shall be valid only, if acknowledged before the county auditor, who shall record the same," be and the same is hereby amended so as to read as follows:

Certificates of purchase how assigned, etc.

Sec. 49. No assignment of a certificate shall be valid unless acknowledged before some officer authorized to take the acknowledgment of deeds, or before the county auditor, who shall, in all cases, record the same. Assignments of certificates heretofore made before any officer authorized to take the acknowledgment of deeds when recorded, shall be as valid as if acknowledged before the county auditor.

CHAPTER CXIX.

AN ACT incorporating school townships, defining their powers, requiring the title of school lots to be vested in the corporated name of the township, town or city in which the same is situate, authorizing public school houses to be occupied for private schools, and also for other meetings, and to authorize the common council or aldermen of a city, and the trustees of an incorporated town, to levy all taxes for schools and the building and repair of school houses, and to repeal all laws inconsistent with this act.

[APPROVED MARCH 3, 1859.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That each and every township that now is, or may hereafter be organized in any county in this State, is hereby also declared to be a school township, and as such, to be a body politic and corporate, by the name and style of "_____ School _____ township of _____ county," according to the name of the township and of the county in which the same may be organized, and by such name may contract and may be contracted with, sue and be sued, in any court having competent jurisdiction.

School townships declared a body corporate.

SEC. 2. The title of all lands acquired for school-house purposes, shall be conveyed to the school township in the corporate name of the township in which the same is situate, except in incorporated towns and cities, and in that case, it shall be in the corporate name of such towns or cities in which the same is situate, for the use of schools therein.

Land titles; how conveyed.

SEC. 3. In all cases where the title to such lands is vested in any other person or corporation than provided in the preceding section, it shall be the duty of the school trustees of the township, town or city in which the same is situate, to procure the title of such land to be vested as provided in the second section of this act.

Titles adjusted.

SEC. 4. If the public good require that a school house, and the ground belonging thereto, should be sold, and the purchase money therefor applied to the purchase of other grounds, and the construction of a school house thereon, the board of school trustees are hereby authorized to sell the same, and after the payment of the purchase money, cause the property so sold to be conveyed, in the corporate name of the township in which the same is situate, to the purchaser.

Sale of school houses.

School house
may be used as a
private school;

SEC. 5. When a public school house is unoccupied by a public school, and the people of the district in which such school house is situate, desire that a private school be taught in said house, it shall be the duty of the trustees, on application of a majority of the householders of the district, to let said house to such teacher as they may designate in their application, until the house may be required for a public school.

And for other
purposes.

SEC. 6. If a majority of the legal voters of any school district desire the use of the school house of such district for other purposes than common schools, when unoccupied for common school purposes, the trustees shall, upon such application, authorize the director of such school district to permit the people of such district to use the house for any such purpose, giving equal rights and privileges to all religious denominations and political parties, without any regard whatever to the numerical strength of any religious denomination or political party of such district.

Taxes in towns
and cities, how
levied.

SEC. 7. In incorporated towns, the school tax for building and repairing school houses shall be levied by the trustees of such town, and in cities the same shall be levied by the common council or aldermen of such city.

Repealing clause.

SEC. 8. All laws inconsistent with this act are hereby repealed.

CHAPTER CXX.

AN ACT to provide for the case of removal from office, death, resignation or inability both of the Governor and Lieutenant Governor, declaring that the Secretary of State shall act as Governor.

[APPROVED MARCH 5, 1859.]

Sec. of State when
to act as Gov.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That in case of the removal from office, death, resignation or inability, both of the Governor and Lieutenant Governor of the State, the Secretary of State shall then act as Governor until the disability be removed, or a Governor be elected; and that all laws inconsistent herewith be repealed.

CHAPTER CXXI.

AN ACT to provide for the fees of Sheriffs in conveying convicts to the State Prison, and providing punishment for violations hereof, and to repeal all laws in conflict herewith.

[APPROVED MARCH 5, 1859.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the sheriff of each county within this State shall, at the close of every court therein having jurisdiction of felonies, convey all persons to the State Prison at the same time, that may have been sentenced there during such term of court; and he shall receive out of the State Treasury, for his services in going to, and returning from such prison, including all expenses by him incurred, at the rate of fifteen cents per mile; *Provided, however*, That when more than one convict is taken at the same time, the sheriff shall receive in addition to the fifteen cents per mile, all necessary expense in the way of fare and hiring help for the safe conveyance of said extra convicts.

Sheriffs to convey all prisoners to S. Prison at one time. Compensation therefor.

SEC. 2. Should any sheriff fail to take all convicts at the same time to the State Prison, which may be convicted at any one term of court, as herein provided, or should he knowingly demand or receive greater compensation than is expressly given him by this act, he shall be guilty of a misdemeanor, and upon conviction, by any court having competent jurisdiction, shall be fined in any sum not less than twenty-five dollars, nor more than five hundred dollars for each offence, to which may be added imprisonment in the county jail, for any term of time not less than ten days.

Sheriff violating Sec 1, guilty of misdemeanor.

SEC. 3. All acts or parts of acts in conflict herewith are hereby repealed.

Repealing clause.

SEC. 4. In the opinion of this Legislature, an emergency exists for the immediate taking effect of this act, the same shall therefore be in force from and after its passage.

Emergency.

CHAPTER CXXII.

AN ACT to compel owners of town lots to grade, and pave or plank sidewalks, and fixing the penalty thereto.

[APPROVED FEBRUARY 14, 1859.]

Owners of property may be compelled to make sidewalks.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That whenever in the opinion of the board of trustees of any incorporated town in this State, public convenience requires that the sidewalks of any street in such town should be graded, or paved, or planked, such board of trustees may, by an ordinance, compel the owners of lots adjoining such street, to grade and pave, or plank the same.

Specification by ordinance.

SEC. 2. Such ordinance shall specify the height of the grade, if the grade of any such sidewalk is to be altered, the width of such pavement, and the time when the same shall be done.

If owner fail to make walks, etc.

SEC. 3. If the owner of such lots shall fail or refuse to grade and pave, or plank such sidewalk, as required in such ordinance, it shall be the duty of the marshal of such town forthwith to let out the grading and paving, or planking of such sidewalk to the lowest bidder, first giving ten days notice by posting up written notices thereof in three public places in such town for that length of time. And when such grading and paving, or planking is completed, said marshal shall report the same to said board of trustees, and the cost of such work shall be audited and paid out of the treasury of such town as other claims against said corporation are audited and paid.

Corporation may recover off property owners.

SEC. 4. Such board of trustees may immediately, by a suit in any court of competent jurisdiction, in the name of such corporation, recover against the owner of such lot, the amount of the cost of paving or planking and grading such sidewalk, and upon execution against the property of said defendant upon such judgment the same shall be sold for cash without regard to the valuation and appraisement laws of this State. And from the date of the completion of such pavement or planking, or grading under contract by the marshal, the costs of such grading and paving or planking and the damages aforesaid, shall be a lien on such lot, and may be enforced in any court of competent jurisdiction, by an action in the name of such corporation.

SEC. 5. It is hereby declared that an emergency exists for the immediate taking effect of this act, and that the same shall be in force from and after its passage and publication in the Indiana State Journal, and the Indiana State Sentinel. Emergency.

NOTE.—Published in Sentinel, March 5, in Journal, March 7, 1859.

CHAPTER CXXIII.

AN ACT for the protection of sidewalks in towns and villages, and for the preservation of shade trees planted along the same.

[APPROVED MARCH 3, 1859.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That it shall be unlawful for any person to ride or drive upon the brick, stone, plank or gravel sidewalks of any town or village in this State, where the street is forty feet or over in width, unless in the necessary act of crossing the same. Driving or riding on sidewalk prohibited.

SEC. 2. It shall be unlawful for any person to remove, destroy or cut any shade tree, or carry off or remove, or in any wise injure the protecting box of any shade tree in any town or village of this State; but this act shall in no wise be so construed as to prevent any owner of grounds from making any necessary alterations in said walks or trees on the same. Destroying shade trees prohibited.

SEC. 3. Any person who shall violate any of the provisions of this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in any sum not exceeding three dollars. Penalty for so doing.

CHAPTER CXXIV.

AN ACT for the investment, distribution and safe keeping of the funds arising from the 113th and 114th sections of an act establishing a State Bank, approved January 28, 1834, and providing for the purchase of Bank bonds and prescribing the duties of certain officers therein named.

[APPROVED MARCH 1, 1859.]

Sinking Fund
Commissioners to
distribute fund to
counties for com-
mon schools.

How distributed.

To be loaned by
county officers.

Each county lia-
ble for amount
received.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That it shall be the duty of the board of the commissioners of the sinking fund, as now constituted by law, to distribute said fund as constituted by the one hundred and fourteenth section of an act establishing a State Bank, approved January 28, 1834, among the different counties of this State in proportion to the number of children in each county listed for the purpose of common school education; and in making such distribution among the several counties, the said board of sinking fund commissioners shall notify the county auditor of such county or counties, as may be entitled to distributive shares or parts, from time to time of the amount so ready for distribution, and thereupon the said county auditor shall draw his warrant in favor of his respective county treasurer, on the board of commissioners of the sinking fund, for such sum or sums as he may have been notified is ready for distribution for such county. Such treasurer shall present the same to the board of commissioners of the sinking fund, who shall pay the same to such county treasurer; and such board of commissioners shall first distribute in favor of those counties in which a proportion of said fund is not now loaned, in proportion to the number of children in such county listed for school purposes.

SEC. 2. As fast as the said sinking fund shall come into the different counties of this State as provided by this act, the same shall be loaned out. The county auditor and county treasurer of their respective counties shall proceed to loan out and invest said funds so held in trust for common school education, by loaning the same upon real estate security in the same manner and subject to the same conditions as other common school funds are now loaned by law.

SEC. 3. Each of the said counties of this State shall be liable for the amount so received and so held in trust

for common school education, and if it should become necessary for the payment or liquidation of the loan or loans, interest or incidental expenses thereof, that may have been negotiated on the part of the State for the payment of stock, in the State Bank, and second and third installments of other stockholders in said bank, the said fund so distributed shall be paid back from the said counties to the said sinking fund commissioners upon demand thereof, or as soon thereafter as the same can be collected and made ready, or in such proportion as may be necessary to discharge said debt.

SEC. 4. The auditor and treasurer and all officers handling or managing said fund shall be liable on their official bonds, for the discharge of their respective duties according to law.

Officers liable on bonds.

SEC. 5. Said commissioners of the sinking fund shall have full power to buy and purchase the bank bonds so called, and shall purchase the same when they can do so on reasonable terms, not paying more than market value for the same, and as fast as they may purchase the same, they shall cancel the same, keeping a correct record and description of each bond so canceled, the amount thereof, and the amount paid for the same, and also shall keep the said bonds for future inspection.

Commissioners may purchase bonds and cancel them.

SEC. 6. After the year A. D 1866, when the last of said bank bonds become due and payable, according to the condition thereof, the said commissioners shall immediately thereafter pay off and discharge the residue of said bank bonds, if any there be left, and as soon thereafter as possible collect all debts, and convert all the property of the said sinking fund into money, and distribute the same as fast as the same may come in, as required by the provisions of this act.

After 1866 shall pay off residue of bank bonds.

Shall collect debts and distribute proceeds.

SEC. 7. In making the distribution as required by the provisions of this act, the said commissioners are required to equalize the funds now held in trust for common schools among the different counties of the State, so that when said fund shall have been distributed each county will have a sum held in trust, proportionate to the number of children she may list for school purposes, provided the congressional township fund shall not be taken into account in making such distribution.

Funds held at present by counties.

SEC. 8. Said commissioners of the sinking fund shall keep back in their hands a sufficient amount of mortgages and funds to redeem the bank bonds, that they shall not distribute, which shall be held as a security for the payment of said bonds.

Commissioners shall keep back money to redeem bank bonds.

To be prudent
and economical.

SEC. 9. Said commissioners are directed to make prudent and economical use of said funds, and as fast as the same may be collected in their hands, to either convert the same into bank bonds or make distribution thereof, among the several counties of this State, as provided by the provisions of this act.

Loans may be
continued in cer-
tain cases.

SEC. 10. Those having borrowed of the said sinking fund whose loans are now due, or may hereafter become due, may take the same up and make payment thereof, by executing mortgages for the amount due, as in the case of those borrowing from the common school fund, as now loaned in the different counties of this State; and in all cases the borrower shall comply with all the provisions of law for the borrowing said funds, and the recorder of such county may put his certificate to such mortgage, specifying the loan or mortgage and the amount thereof, if any such shall exist. In all such cases the county auditor shall draw his warrant upon the county treasurer for the amount so loaned, specifying in such order that the same is to be paid from the sinking fund. If accepted by the commissioners thereof, such order shall then be presented by the borrower to the treasurer of such county, who shall endorse thereon "accepted." If paid by the commissioners of the sinking fund, such borrower shall then present such order to the said commissioners of the sinking fund at their office, and if found to be right by them, they shall accept and receive said order on said treasurer, and shall enter satisfaction upon the mortgage and bond by them held, and transmit the same to the auditor of the county where said loan was made, and such auditor shall cause the proper satisfaction of said mortgage to be entered upon the records of the recorder of such county.

If real estate is
not sufficient may
renew part of
loan.

SEC. 11. If upon an appraisement of any such real estate, the proper county auditor would not be authorized to loan, under the laws in force for the loaning of common school funds, the amount due said sinking fund, and in that case the person so wishing to borrow may have an amount equal to the amount the said auditor may be authorized to loan, by paying in money to the sinking fund commissioners, an amount sufficient to complete the payment of his said loan, provided that nothing in the preceding section shall authorize the said sinking fund commissioners to distribute in any county more than the due proportion of said fund as provided in this act.

SEC. 12. The interest from the said fund, as the same may be distributed among the different counties of this State, shall be used for the purpose of school education as other school funds are now used.

Interest or loan to be used for education.

SEC. 13. It is hereby declared, that from and after the time that said commissioners of the sinking fund shall have distributed said fund as provided by this act, said office of sinking fund commissioners shall cease to be.

After fund is distributed.

SEC. 14. Said commissioners of the sinking fund shall make out annually, on the first day of January, a full report of the condition of said fund, showing the amount thereof, the amount loaned on mortgage, and in what counties, the amount of bank bonds purchased and the amount outstanding, the amount of money on hand and other matter properly connected therewith, and shall submit the same to the Governor of the State, who shall cause five hundred copies thereof to be published and distributed among the different county auditors of this State.

Office of commissioners to cease.

SEC. 15. All laws not inconsistent with this act in regard to the sinking fund, or giving powers to, or prescribing the duties of the sinking fund commissioners, their officers, clerks, agents and servants, or prescribing punishments against them for malfeasance in office, that were in force on the day preceding the first day of January, 1859, are hereby declared to be in full force and to apply to the present board of sinking fund commissioners and its officers, clerks, agents and servants, but all such laws as are inconsistent with this act are hereby repealed.

Report of commissioners.

SEC. 16. When it is ascertained that there has been a loss in any county, it shall be the duty of the county commissioners to pass an order on the county treasurer for the amount so lost.

Laws continued in force in case of loss.

CHAPTER CXXV.

WHEREAS, It is improbable that the funds in the treasury of State will be sufficient to discharge the current expense of the State, and meet the interest on the State debt accruing on the first day of July, 1859; AND WHEREAS, there is in the hands of the Board of Sinking Fund Commissioners an amount sufficient for that purpose, therefore,

Aud. of State to deliver sinking fund com'rs certificates of stock.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the Auditor of State shall deliver immediately to the board of Sinking Fund Commissioners all the certificates of stock that have been purchased, redeemed, or are now held by the State Debt Sinking Fund Commissioners, and the same shall be taken by said board at the market rate of such certificates, at the time of their delivery, and the proceeds of such sale shall be held by said board to the credit of the State, subject to the draft of the Auditor of State, in the manner hereinafter prescribed, and the balances in the hands of said board shall draw interest at the rate of five per cent. per annum.

July interest of 1859, how paid.

SEC. 2. That for the purpose of paying the interest that may be due on account of the State debt on the first day of July, 1859, the Auditor of State is directed to make his draft, on the said board, in favor of the Treasurer of State, on the 15th day of June next, for the amount of such interest, and the same shall be applied by the treasurer in the manner prescribed by law towards the payment of such interest.

Residue left on hand paid into State Treasury.

SEC. 3. The residue of the proceeds of said sale of certificates of stock shall be paid by the said board to the Treasurer upon the draft of the Auditor of State, from time to time, whenever by reason of a deficiency in the Treasury of State, such money may be needed for the payment of the current expenses of the State.

Gov. Aud. and Treas. of State to make loan, etc.

SEC. 4. The Governor, Treasurer, and Auditor of State, are hereby authorized to procure a necessary loan of money not exceeding the sum of fifty thousand dollars, should the sum hereinbefore provided be insufficient to meet the current expenses of the State for the years 1859 and 1860.

Emergency.

SEC. 5. It is hereby declared that an emergency exists for the immediate taking effect of this act, and the same shall be in force from and after its passage.

EXECUTIVE DEPARTMENT, INDIANA.

The foregoing bill was received March 4, 1859.

SAMUEL OSBOURNE, *Private Secretary*.

CHAPTER CXXVI.

AN ACT establishing a Board of Sinking Fund Commissioners, providing for the election and appointment of the officers thereof, prescribing the powers and duties of said Board, and limiting the salary of the President and Clerk of the Board.

[APPROVED JANUARY 15, 1859.]

SECTION. 1. *Be it enacted by the General Assembly of the State of Indiana*, That a president and four commissioners of the sinking fund shall be elected by the General Assembly at the present session thereof, by joint viva voce vote of the two Houses, and hereafter as herein provided. Pres't and four com'rs elected.

SEC. 2. Of the commissioners first elected, two shall serve for the period of two years, and two for the period of four years, from and after their election, and until their successors are elected and qualified. Term of service.

SEC. 3. On the second Tuesday after the first election, the commissioners elected shall, in the presence of the Governor, determine by lot, which of said commissioners shall hold for the long, and which for the short term, and the Governor shall issue commissions accordingly. Gov. shall issue commissions.

SEC. 4. The president shall hold his office for the period of four years from and after his election, and until his successor is elected and qualified. Pres't to hold office four years.

SEC. 5. The said president and commissioners shall each, before entering upon the discharge of their duties, enter into bond with security to be approved by the Governor of the State, in the penal sum of one hundred thousand dollars, conditioned for the faithful discharge of duties; said bonds shall be filed in the office of Secretary of State, and be by him recorded. Pres't and com'rs to enter into bond.

SEC. 6. Said board, a majority of whom shall be a quorum, shall have all the powers, and discharge all the duties heretofore appertaining to the sinking fund board, and be governed by the laws which now are, or which hereafter may be enacted in reference thereto. Board to have powers.

SEC. 7. The said board, which shall consist of the president and commissioners, shall appoint a clerk, who shall execute a bond for the faithful performance of his duties, in the penal sum of one hundred thousand dollars, with securities to the approval of the board, and Board to appoint clerk, who shall execute bond.

shall also, before entering on his duties, take an oath of office.

Com'rs to receive
three dollars per
day.

SEC. 8. The said commissioners shall each receive three dollars per day for each day actually engaged in the discharge of official duty, and their actual expenses incurred in traveling to and from the discharge of their duties; but before said expenses shall be paid, an account showing each item, verified by oath, shall be filed with the clerk of the board.

Compensation to
be regulated by
com'rs.

SEC. 9. Until the salary or compensation of the president, clerk and assistants shall be established by law, the same may be regulated by the commissioners, but the president shall have no vote in fixing his own compensation, nor shall the salary of the president exceed fifteen hundred dollars per year, nor that of clerk one thousand dollars per year.

Legislature to
elect successor.

SEC. 10. The legislature, at the session during which the term of the president or any of the commissioners shall expire, shall elect a successor to the incumbent, in manner aforesaid, who shall serve for four years, and until his successor is elected and qualified.

Board to make
settlement with
Gov. Aud. and
Treas. of State.

SEC. 11. It shall be the duty of the present board of sinking fund commissioners, or persons discharging said duties, to make full and final settlement of all matters connected with said sinking fund, with the Governor, Auditor and Treasurer of State, on the second Tuesday succeeding the first election under this act, and on the second Tuesday succeeding every election of commissioners held pursuant to this act, a like settlement shall be made with the incumbents.

Emergency.

SEC. 12. It is hereby declared that an emergency exists for the immediate going into effect of this act, that it shall take effect and be in force from and after its passage.

CHAPTER CXXVII.

AN ACT providing for the election or appointment of Supervisors of Highways, and prescribing certain of their duties, and those of county and township officers in relation thereto.

[APPROVED MARCH 5, 1859.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the qualified voters in each township of the several counties in this State, shall elect a supervisor in each of the road districts in their respective townships at the annual township election, held on the first Monday in April in each year, who shall hold his office for one year thereafter, and each supervisor shall receive, for all necessary service, the sum of one dollar per day, to be paid out of the township treasury; *Provided,* such supervisor shall not be entitled to charge or receive any compensation whatever, for a number of days equal to that required and employed by other persons of his road district liable to work on highways.

Supervisors to be elected in each road district annually.

Compensation of supervisors.

SEC. 2. If upon counting the votes at any election provided for in the next preceding section, any ticket shall be found with more than one person voted for as such supervisor, it shall be deemed an illegal vote as far as relates to such officer, and shall not be counted to such person for that office.

Vacancies filled by township trustees.

SEC. 3. When there shall be a failure to elect a supervisor for any district, and in case a vacancy shall occur in said office from any cause, the trustee of the township in which such district is situate, shall appoint such supervisor as soon as he is informed of such failure or vacancy, who shall hold his office until the next annual election, and when an appointment of supervisor is made by such trustee, he shall make out a certificate of such appraisement, and deliver the same to a constable of such township within three days after such appointment, and such constable shall deliver the same to the person appointed, and make return thereof to such trustee within seven days thereafter, but any person may be exempt from serving as such supervisor by paying into the township treasury the sum of six dollars, and in such case the vacancy shall be filled as herein before provided; *Provided, however,* that no person shall be compelled to serve oftener than once in four years.

Not to serve oftener than once in four years.

Forfeit for not
serving as super-
visor.

SEC. 4. Any person liable to perform highway labor, who shall fail to accept the office of supervisor of his district, and to qualify and serve as such when duly elected or appointed, or to pay the sum in the next preceding section, specified as a commutation therefor, within twenty days after his appointment or election, shall forfeit the sum of six dollars, to be recovered before any justice of the peace of the township for the benefit of the road district, of which such person so failed to accept the office of supervisor, and in case of such failure the township trustee shall bring suit for such penalty in the name of the township, and if there be no such trustee the auditor of such county shall bring such suit. In case of recovery of such penalty it shall be paid to the proper supervisor of such road district, if there be one, if not, then to the township trustee for the benefit of such road district.

Supervisor to
take oath.

SEC. 5. Such supervisor shall take an oath before entering upon the discharge of his duties, for the faithful performance thereof; he shall carry into effect all the orders of the trustee of the township in which the road district is situate, touching the highways and bridges therein, and keep the same in good repair; he shall also call out all persons in such district liable to work on highways therein, and superintend the labor thereon, and see that the same is faithfully performed, sue for and collect all fines and commutation moneys due such district.

His duties.

SEC. 6. Such supervisor shall call out all the male persons except insane, idiots, deaf and dumb and blind persons in such district, who are residents of this State, and over the age of twenty-one and under fifty years, and not exempt from such labor, during two days in the months of May or June of each year, and shall require each of such persons to work on the highways in such district eight hours each day, and to furnish in such labor any tool the supervisor may direct, if the demand therefor be a reasonable one.

His further duties

SEC. 7. Such supervisor may require any person liable to work on such highways, who may be the owner of an ox or horse team, and a plow, cart or wagon, to furnish the same and a driver in such labor upon such highway, and such person shall receive credit for three days labor therefor, and be receipted accordingly by such supervisor.

Further duties of
supervisor.

SEC. 8. The supervisor of such district shall make out, within ten days after he is qualified, a list of all

persons in his district liable to work on the highways thereof, and present the same to the trustees of such township, who shall enter the same on the record book thereof. Such supervisor shall notify each person in his road district liable to work on the highways thereof, by verbal or written notice, and if written, to be left at the residence of such person, of the time and place of working on such highways at least three days prior to the time designated for such working.

Shall make/out list of persons in district, serve notice on same.

SEC. 9. On application to the township trustee, any person liable to work on highways may be exempt therefrom, if it be shown he is unable from bodily infirmity to work thereon, and that he is too poor to pay the commutation therefor; also, any person belonging to any legally organized fire company, and in such cases the township trustee shall execute to such person a certificate thereof, which shall, on being presented to the supervisor, entitle him to such exemption.

Persons exempt from work.

SEC. 10. Any person liable to work on highways may be exempted therefrom by paying to the supervisor of his road district one dollar for each day he is liable to work thereon, and in that case he shall be receipted therefor by the supervisor, which supervisor shall be authorized to employ some person or persons to work out such money at the rate of seventy-five cents per day on the roads of his district, or failing so to do, he shall pay over all such money into the township treasury, for the benefit of the road district.

By paying \$1 per day exempt from labor.

SEC. 11. Such supervisor, within ten days after warning the hands liable to work on such district, shall bring suit in the name of the township in which such district is situate, against such persons as fail to work or pay over the commutation money therefor, before any justice of the township, and in such suit it shall only be necessary for an account stating the number of days which each of such persons so failed, and charging one dollar per day each therefor, to be filed as a cause of action, and in case of a recovery by such supervisor the judgment shall be rendered for one dollar for every day the defendant so failed, and costs of suit and no stay of execution, or benefit of exemption, valuation or appraisement law shall be allowed on such judgment; and in case such supervisor shall fail to bring such suit he shall forfeit and pay the sum of ten dollars, to be recovered before any justice of the township in the name thereof, and all money so recovered under the provisions of this section shall be received and expended

Persons failing to work shall be sued by supervisor.

Supervisor failing to bring suit liable to fine of \$10.

by the proper supervisor in the improvement of the highways of his district; *Provided*, such supervisor shall not be required to bring such suit within ten days against any person or persons, from whom there is no probability of collecting, or who at the time of working shall be sick or otherwise disabled from labor.

Substitutes.

SEC. 12. Any person liable to perform labor on the public highways when notified for such purpose, may appear in person or by an able bodied substitute, and the person or substitute so appearing shall actually work eight hours each day, under a penalty of twelve and a half cents for every hour such person or substitute shall be in default, to be deducted by the supervisor from the price of the day's labor.

Idlers forfeit \$1
per day

SEC. 13. If any such person or his substitute, after appearing, shall remain idle or not work faithfully, or shall hinder others from working, such offender shall, for every such offence, forfeit the sum of one dollar, to be collected as other fines and forfeitures herein specified, and he shall be discharged by the supervisor without credit for any part of the work he may have done.

Proceeds of fines
and forfeitures,
how expended.

SEC. 14. Such supervisor, within ten days after the receipt of any money which he is not required to pay over to the township trustee, shall proceed to employ laborers to repair the highways in his district, but shall not pay more to such laborers than is customary in his district for similar purposes; and such supervisor shall attend such repair, but in no case shall such supervisor neglect to repair such highways, and if such labor and tax, or labor where no tax has been assessed, shall be insufficient therefor, he shall call out the hands in his district to complete such repairing, and if any person so called out shall refuse to work, he shall be liable to pay the commutation money therefor, and it shall be the duty of the supervisor to bring suit for the same as provided in this act.

Shall employ
laborers.

SEC. 15. When such extra labor, provided for in the next preceding section, shall not require all the hands in the district or an equal amount of labor from each, the supervisor may assess upon the same, upon such number of hands as he may deem sufficient, and for the excess of work performed by any one over the average amount performed by all, he shall give to each person performing such excess a certificate of the amount thereof, which shall be good credit to the holder thereof, on account of any subsequent labor to be done by him on the highways in his said district.

Shall give certifi-
cate for over
work.

SEC. 16. The supervisor, or any other person by his order, may enter upon any land adjoining or near to any highway in his district, and thereupon construct such ditches, drains and dams, and dig and remove any gravel, earth, sand or stone, or cut and remove any wood or trees that may be necessary for the proper construction, repair or preservation of such highways, and any person aggrieved may petition the township trustee for an assessment of damages occasioned thereby, and in such case, such trustee shall appoint three disinterested persons in such township to view the locality where the grievance was committed, and assess such damages within twenty days after such appointment, they having first taken an oath to faithfully discharge their duties, before some officer authorized to administer oaths, and such viewers shall make report thereof, within ten days after such assessment, to such trustee, having first given notice thereof to the complainant, and such trustee shall pay the damages assessed to be paid out of the township treasury, unless he should deem them unreasonable, in which case he may reduce the amount.

May enter lands to construct ditches, drains, &c.

Persons aggrieved thereby may petition trustees.

Damages, how assessed.

SEC. 17. When a public highway, running through or bordering on any plantation, shall become obstructed, the owner or occupant of such plantation shall remove such obstruction as soon as the same has come to his knowledge, for which the proper supervisor shall allow him a reasonable credit on his liability to work on the highways, except such obstruction is caused by the act of the owner of such plantation, in which case he shall be required to remove the same without any such credit.

Persons to be allowed for removing obstructions, &c.

SEC. 18. All trees standing or lying on the land, over which any highway shall be laid out, which it shall be necessary to remove in the opening of such highway, shall belong to the owner of such land, if he shall avail himself of the same before the supervisor is required to open such highway, but all such trees and down timber, or other material found on such premises may be taken and used by the proper supervisor for the construction or repair of the highway or bridge on such land.

Ownership of timber on roads.

SEC. 19. Every supervisor shall erect and keep up at the forks of every highway and every crossing of roads within his district, suitable guide posts and boards with suitable, proper and legible inscriptions thereon, directing the way and mentioning the distance to the most

Finger board.

noted place on each road respectively ; and the township trustee shall make such supervisor a reasonable allowance therefor, to be paid out of the township treasury.

Road tax

SEC. 20. The township trustee with the concurrence of the board of county commissioners, shall assess annually, a road tax of not more than fifteen cents on the one hundred dollars, to be levied according to the amount of real and personal property owned in said township subject to taxation, and may assess a tax not to exceed one and one-fourth cents on each acre of taxable land for road purposes, to be collected as provided in the bill defining the duties of township trustee; *Provided, however*, that the tax so assessed on real estate may be worked out in the road district in which such real estate lies, and the tax assessed on personal property in the district where the owner resides at the rate of one dollar per day. The supervisor shall obtain a list of all road tax assessed on each individual, and his certificate for the amount worked out shall be taken by the treasurer of the county in payment of said tax.

Tax may be worked out.

Trustee to order expenditure of road tax.

SEC. 21. Such trustee shall order the expenditure of such tax in the improvement of the highways thereof, under such regulations as he may deem most expedient for the public interest, and for this purpose shall pay such sum to each supervisor of the township as the highways in their respective districts may require, but before paying any such sum to such supervisor, such trustee shall take from him a bond, with penalty and surety to be by him approved, for the faithful performance of the duties of his office, in the disposition of such fund, which bond such trustee shall file and preserve in his office; *Provided*, that if any supervisor shall not give such bond, then he shall be entitled to give his order on the trustee in favor of any person entitled thereto, for labor done in any amount not exceeding the amount due his road district, and such order shall distinctly state the services performed by such person.

Proviso.

Trustee to let out certain work.

SEC. 22. Such trustee may let out the same to the lowest responsible bidder, and for this purpose he may cause notices to be posted up in three of the most public places in the township, that proposals will be received under such regulations as he may prescribe at a time and place to be by him designated, for the repair of all the highways and bridges in such road district; and in all such cases such trustee shall adopt such regulations as to the extent of the repairs, terms of pay-

ment, superintendence of the work, and the time of commencement and completion thereof, as he may deem proper.

SEC. 23. Such trustee shall divide his township into such road districts as he may deem convenient, and in case he shall fail so to do, the board of county commissioners of the county shall divide such township into such road districts as they may deem proper; and in case any such township shall not be organized under the provisions of the law providing for the electing of a trustee of such township, all duties required to be performed by, and all rights accruing to such trustee shall be performed by and accrue to the board of commissioners of the county.

Trustee to divide township into road districts.

When Co. Board shall perform duties of trustee.

SEC. 24. Any person who shall injure any dam, drain, embankment, ditch or other construction, made for the protection of any highway or bridge, or who shall willfully destroy any guide post, or deface any inscription or device thereon, or who shall unnecessarily and to the hindrance of passengers, obstruct any highway or bridge, and who shall, when driving any vehicle, fail to keep to the right when meeting another vehicle, so as to allow it to pass without injury, for every such offence such person shall forfeit the sum of five dollars, to be recovered before a justice of the peace of the county, in the name of such trustee, by the supervisor of the district; and in case of such obstruction, for every day the same is continued, such sum shall be recovered; and in all such cases, such supervisor, within three days after receiving information of any such forfeiture shall commence such suit, and the sum recovered thereon shall be paid to the trustee of the township for the benefit of the highways of such district.

Persons injuring ditch or road, &c liable to fine.

SEC. 25. All such suits commenced by one supervisor may be continued by his successor in office, and no costs shall be taxed against him therein, and in case such supervisor shall fail to use due diligence in keeping the highways of his district in good repair, under the regulations herein prescribed, or who shall fail to call out the hands of his district to work on the highways thereof, the number of days herein prescribed, unless the tax assessed for the repair of such highway is sufficient, or who shall fail to bring suit for any of the forfeitures herein provided, when required so to do by this act, or who shall fail to perform any other duty enjoined upon him by this act, for every such offence he shall forfeit the sum of ten dollars, to be recovered

Suits commenced by one supervisor may be prosecuted by his successor.

Failure to bring suit.

before any justice of the county, in the name of the township by the trustee of such township, and all sums so recovered shall be for the benefit of the district for which such supervisor was elected or appointed, and such trustee shall bring suit within three days after receiving any information of any such forfeiture.

Supervisors shall collect delinquencies of predecessor.

SEC. 26. The successor in office of any supervisor shall collect and receive all delinquencies accruing during the term of his predecessor or predecessors, and all judgments that may have been rendered in his or their name remaining uncollected, and shall hand over all books, papers and moneys, as well as all tools in his possession to his successor in office when called for.

Secretary of State to cause 15,000 copies of road laws to be printed.

SEC. 27. It shall be the duty of the Secretary of State to cause fifteen thousand copies of this act, together with the acts in force, concerning the laying out of highways and the construction and repair of bridges, to be published, printed and bound in pamphlet form, and cause the same to be distributed with the general laws of this session, to the several counties in this State, in such proportion as each county will be entitled to receive. One copy of which shall be by the county auditors of the respective counties delivered on demand to each supervisor of highways in such county.

Township trustees authorized to administer oaths.

SEC. 28. Every township trustee in this State is hereby empowered to administer oaths in all cases touching and necessary in the prosecution of the business of the township of which he is trustee.

Moneys to be paid trustee and by him expended.

SEC. 29. All moneys in the treasury of any county belonging to a road district thereof, shall be paid over to the trustee of the township in which such district is situate on the warrant of the proper auditor, and shall be applied to the benefit of such district; the money so paid to the township trustee shall be by him paid out on the order of the supervisor or supervisors of such township; all moneys and labor intended for the improvement of roads shall be expended thereon, on or before the fifteenth day of September each year.

CHAPTER CXXVIII.

AN ACT authorizing and empowering Supervisors of highways to keep in repair roads changed by the construction or running of railroads.

[APPROVED MARCH 4, 1859.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That whenever any public highways within this State have been, or may hereafter be changed from their original bed, by the construction or running of any railroad, that supervisors within their respective districts shall have power, and it is hereby made their duty to open and keep in repair any roads so changed, the same as if they remained where originally located.

Supervisors to repair roads changed by railroads.

CHAPTER CXXIX.

AN ACT to provide for the collection of the surplus revenue fund belonging to the counties of DeKalb, Lake and Wells, on loan at the State Treasury, and for the payment of said fund over to the Treasurers of said counties.

[APPROVED MARCH 5, 1859.]

WHEREAS, A part of the surplus revenue fund belonging to the counties of DeKalb, Lake and Wells is on loan at the State Treasury; AND WHEREAS, If said funds were managed at the treasuries of said counties they would not be legally chargeable with more than one-half of the fees and expenses they are now charged with; therefore,

Preamble.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That immediately after the passage of this act, the Auditor of State shall give notice by writing to the borrowers of the surplus revenue fund on loan at the State Treasury belonging to the counties of DeKalb, Lake and Wells, to pay the same into the said treasury within six months from the service of said notice; and if said loans, or any part thereof, are not paid at the expiration of said six months, the said Auditor shall immediately proceed to collect the same in the manner prescribed by law.

Auditor of State to require borrowers of Surplus Revenue Fund in DeKalb, Lake and Wells counties to pay up.

Treasurers of those counties entitled to said moneys on demand.

Proviso.

SEC. 2. As soon as the funds specified in the preceding section are paid into the State Treasury, the State Auditor shall notify the treasurers of said counties thereof, who shall be entitled to receive said funds on demand; *Provided*, that this act shall not be construed to prevent said county treasurers from receiving any portion of said fund that may be in the State Treasury at any time in due proportions.

SEC. 3. This act shall be in force from and after its passage, and the Secretary of State shall deliver a properly attested copy thereof to the Auditor of State.

CHAPTER CXXX.

AN ACT to regulate and license the sale of spirituous, vinous, malt and other intoxicating liquors, to prohibit the adulteration of liquors, to repeal all former laws contravening the provisions of this act, and prescribing penalties for violation thereof.

[APPROVED MARCH 5, 1859.]

Liquor not to be sold in less quantity than a quart without license.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That no person shall sell or barter, directly or indirectly, any intoxicating liquor, by a less quantity than a quart at a time, within this State, without first procuring from the board of commissioners of the county in which such liquor or liquors are to be sold, a license as hereinafter provided; nor shall any person, without having first procured such license, sell or barter any intoxicating liquor, to be drank or suffered to be drank in his house, out-house, yard, garden, or the appurtenances thereto belonging.

What is meant by "intoxicating liquors."

SEC. 2. The words "intoxicating liquors," as used in this act, shall apply to any spirituous, vinous or malt liquor, or to any intoxicating liquor whatever, which is used, or may be used as a beverage.

Persons wishing to sell shall publish notice of application.

SEC. 3. Any white male inhabitant desiring to obtain license to sell intoxicating liquors, shall give notice to the citizens of the township in which he desires to sell, by publishing in a weekly newspaper in the county, a notice, stating in the notice the precise location of the premises in which he desires to sell, at least twenty days before the meeting of the board at which the applicant

intends to apply for license; or in case there is no such newspaper in such county, then by posting up written or printed notices in three of the most public places of the township in which he desires to sell, at least twenty days before the meeting of such board. And it shall be the privilege of any inhabitant of said township to remonstrate in writing against the granting of such license to any applicant on account of immorality or other unfitness.

Remonstrance may be made.

SEC. 4. The board of county commissioners, at such term, shall grant a license to such applicant upon his showing to the satisfaction of said board of commissioners that he has given the notice as above required, and that he is a man of good character and fit to be trusted with said license, and upon his giving bond payable to the State of Indiana, with at least two freehold sureties, residents within said county, to be approved by the county auditor, in the sum of five hundred dollars, conditioned that he will keep an orderly and peaceable house, and that he will pay all fines and costs that may be assessed against him, for any violations of the provisions of this act, which bond shall be filed with the county auditor of said county.

Board of Commissioners may grant license, applicant shall give bond.

SEC. 5. Such applicant shall, before license shall issue to him, be requested to pay to the treasurer of said county fifty dollars, as a fee for license for one year, to be applied and expended for common school purposes, in the same manner in which the revenues of the common school fund are, or may be expended.

Applicant shall pay \$50 license fee.

SEC. 6. Upon the execution of the bond as required in the fourth section of this act, and the presentation of the order of the board of commissioners granting him license, and the county treasurer's receipt for the fees as aforesaid, the county auditor shall issue a license to the applicant for the sale of intoxicating liquors in a less quantity than a quart at a time, with the privilege of permitting the same to be drank in the premises as stated in the aforesaid notice, which license shall specify the name of the applicant, the place of sale, and the period of time for which such license is granted.

Upon execution of bond, Auditor shall issue license

SEC. 7. No license as herein provided shall be granted for a greater or less time than one year.

Terms of license.

SEC. 8. A license granted under the provisions of this act shall not authorize the person so licensed to sell or barter any intoxicating liquors on Sunday, nor to any person under the age of twenty-one years, nor to a person or persons in a state of intoxication, nor upon the

Liquor not to be sold on Sunday, on election days, to intoxicated persons or minors.

day of any State, county, township or municipal election in the township or city where the same may be holden.

Selling to person after notice, shall be deemed a misdemeanor.

SEC. 9. Every person who shall, directly or indirectly, knowingly sell, barter or give away any intoxicating liquor to any person who is in the habit of being intoxicated, after notice shall have been given him by the wife, child, parent, brother or sister, of such person, or by the overseer or overseers of the poor of the township where he resides, that such person is in the habit of being intoxicated, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than five nor more than fifty dollars.

Persons selling without license may be fined and imprisoned.

SEC. 10. Any person not being licensed according to the provisions of this act, who shall sell or barter directly or indirectly any intoxicating liquor in a less quantity than a quart at a time, or who shall sell or barter any intoxicating liquor to be drank or suffered to be drank in his house, out-house, yard, garden, or the appurtenances thereto belonging, shall be fined in any sum not less than five nor more than one hundred dollars, to which the court or jury trying the cause may add imprisonment in the county jail for any determined period not exceeding thirty days.

Penalty for selling to minors.

SEC. 11. If any person shall sell, barter or give away any intoxicating liquors to any person under the age of twenty-one years, or to any person at the time in a state of intoxication, the person so offending shall be fined not less than five nor more than one hundred dollars, to which the court or jury trying the cause may add imprisonment in the county jail for any determined period not exceeding thirty days.

Adulteration prohibited.

SEC. 12. Any person who shall adulterate any intoxicating liquor, which is intended for sale, by the admixture of any deleterious substance therewith, or any person who shall offer for sale or sell any intoxicating liquor, which shall have been so adulterated as aforesaid, on conviction thereof shall be fined in any sum not less than fifty dollars nor more than five hundred dollars, to which the court or jury trying the cause may add imprisonment in the county jail for any determined period not exceeding three months.

Disorderly house to be deemed a nuisance.

SEC. 13. Every place, house, room, arbor or shed wherein intoxicating liquors are sold, bartered or given away, or suffered to be drank, if kept in a disorderly manner, shall be deemed a common nuisance, and the keeper thereof upon conviction, shall be fined in any sum not less than fifty dollars, nor more than two hun-

dred dollars, to which may be added by the court or jury trying the cause, imprisonment in the county jail for any determined period of time not exceeding three months; *Provided*, That no prosecution shall be instituted or maintained against any person for any violation of any of the provisions of this act occurring between the time when it shall take effect, and the close of the first regular session of the board of commissioners of the proper county, thereafter, the beginning of which session not taking place in less time than four weeks after this act shall have taken effect.

Penalty for keeping such.

Proviso.

SEC. 14. Courts of common pleas and circuit courts, within their respective jurisdictions, shall have concurrent jurisdiction to hear and determine all complaints for the violation of any of the provisions of this act, and the grand juries of the several circuit courts shall have and it is hereby made their duty to take cognizance of offences against its provisions, as in cases of felonies.

Courts taking cognizance of the violation of this act.

SEC. 15. Justices of the peace within their respective counties, shall have jurisdiction to try and determine all cases arising under the provisions of this act; *Provided*, That if in the opinion of the justice or jury trying any such case, a fine of twenty-five dollars shall be an inadequate punishment for such violation, then the justice in such case shall recognize the party in sufficient bond and surety to appear at the next term of any court of competent jurisdiction, to answer said charge.

Justices of the Peace taking cognizance of the violation of this act.

SEC. 16. All laws and parts of laws coming in conflict with any of the provisions of this act, be and the same are hereby repealed; but nothing in this act shall be so construed as to prohibit the common councils of cities and the boards of trustees of incorporated towns, from demanding and enforcing a fee for license, from all keepers of coffee houses or other places where intoxicating liquors are sold and drank, within the limits of their respective corporations.

Repealing clause

SEC. 17. It is hereby declared that an emergency exists for the immediate taking effect of this act, it shall, therefore, be in force from and after its publication in the Indiana State Sentinel, and the Indiana State Journal.

Emergency.

NOTE—Published in Sentinel March 12, and Journal March 14, 1859.

CHAPTER CXXXI.

AN ACT supplemental to an act for the incorporation of towns, defining their powers, providing for the election of the officers thereof, and declaring their duties, approved June 11, 1852, and making the order of the Board of Commissioners under section nine of said act, final in certain cases.

[APPROVED MARCH 4, 1859.]

Towns having taken certain steps declared incorporated towns.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That in all cases where the inhabitants of any town in this State have taken steps to incorporate the same under "an act for the incorporation of towns, defining their powers, providing for the election of the officers thereof, and declaring their duties," approved June 11, 1852, and where the board of county commissioners of the county in which such town is situated, have, in pursuance of such proceedings, made a final order declaring such town incorporated by the name designated, in pursuance of section nine of the above recited act, such order shall be conclusive, and such town shall be deemed and taken to be an incorporated town; *Provided*, that nothing in this act shall be so construed as to affect any case where an appeal has been taken from such order, or where an appeal may hereafter be taken from such order within the time prescribed by law.

Proviso.

Emergency.

SEC. 2. It is hereby declared that an emergency exists for the taking effect of this act; this act shall therefore take effect and be in force from and after its passage.

CHAPTER CXXXII.

AN ACT to amend an act entitled "an act to repeal all laws now in force for the incorporation of cities, and to provide for the incorporation of cities, prescribe their powers and rights, and the manner in which they shall exercise the same, and to regulate such other matters as properly pertain thereto," approved March 9, 1857, and to provide for a penalty upon city taxes remaining delinquent after the third Monday in March, A. D., 1859.

[APPROVED MARCH 1, 1859.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That section two of an act, which reads as follows, to-wit :

Sec.2 amended.

"Sec. 2. Whenever one-third of the voters of any incorporated town, so far as the number can be estimated, shall petition the board of trustees thereof, or common council of any incorporated city to be incorporated as a city under this act, such board of trustees or common council, by an order or resolution to that effect, entered upon their order book, shall direct the marshal or other officer thereof, by a proper warrant, furnishing him with the necessary forms to take the census of all persons who were residents within the corporate limits of such city or town, at least forty days anterior to the date of such order; *Provided, however,* that if it shall appear to said board of trustees or common council by the last census of this State or of the United States, that said town or city had three thousand inhabitants, said board or common council shall be at liberty to proceed in all respects as though the said census had been taken in the manner as provided by this act," shall be amended to read as follows, to-wit:

Sec. 2. Whenever one-third of the voters of any incorporated town, so far as the number can be estimated, shall petition the board of trustees thereof, or common council of any incorporated city, to be incorporated as a city under this act, such board of trustees or common council, by an order or resolution to that effect, entered upon their order book, shall direct the marshal or other officer thereof, by a proper warrant, furnishing him with the maps and necessary forms to take the census of all persons who were residents within the corporate limits of such city or town, at least forty days anterior to the date of such order; *Provided, however,* that if it shall appear to said board of trustees or common council, by the last census of this State or of the United States, that said town or city had two thousand inhabitants, said board or common council shall be at liberty to proceed in all respects as though the said census had been taken in the manner provided in this act, which is in the words following, to-wit :

One-third of voters of any town or city, etc.

Proviso.

Sec. 4 amended. "Sec. 4. If the return shows a population of three thousand persons or more, the trustees or common council, within ten days thereafter, shall publish a notice to the voters of such town or city, as in other corporation elections, stating that on a day and at a place therein named a poll will be opened to determine whether such town or city shall be incorporated as a city," shall be amended to read as follows:

How amended. Sec. 4. If the return shall show a population of two thousand persons or more, the trustees or common council, within ten days thereafter, shall publish a notice to the voters of such town or city, as in other corporation elections, stating that on a day and at a place therein named, a poll will be opened to determine whether such town or city shall be incorporated as a city.

Sec. 9 amended. SEC. 2. That section nine of said act, which reads as follows, namely:

"Sec. 9. The officers of a city shall consist of a mayor, two councilmen from each ward, a city clerk, assessor, treasurer, engineer, street commissioner and marshal, and if the common council deem it expedient for the best interests of said city, a city attorney and city judge; *Provided*, that the common council may dispense with the street commissioner and require the marshal to perform his duties. All such officers elected at any special election, shall hold their offices until the next general election, on the first Tuesday in May, and until their successors shall be elected and qualified. After said first general election, said officers shall respectively hold their offices as follows, to-wit: the mayor and city judge, two years each; the clerk, assessor, treasurer, street commissioner, marshal and attorney, one year each; and the councilmen shall be chosen by the legal voters of their respective wards, and one councilman from each ward, to be determined by lot at the first regular meeting after their election, shall hold his office one year, and the other, to be determined in like manner, shall hold his office two years; and annually thereafter, one councilman shall be elected by the legal voters of each ward, and all of said officers shall hold their respective offices during their respective terms, and until their successors are elected and qualified. The said clerk, assessor, treasurer and marshal, with the consent of the common council, may appoint one or more deputies when necessary," be so amended as to read as follows, namely:

Officers of the city.

Sec. 9. The officers of said city shall consist of a mayor, two councilmen from each ward, a city clerk, assessor, treasurer, engineer, street commissioner and marshal, and, if the common council deem it expedient for the best interests of the city, a city attorney and city judge; *Provided*, that the common council may dispense with the street commissioner, and require the marshal to perform his duties. All such officers elected at any special election, shall hold their offices until the next general election, on the first Tuesday in May, and until their successors shall be elected and qualified. After the first general election, said officers shall respectively hold their offices for two years each. The councilmen shall be chosen by the legal voters of their respective

Provided.

wards, and one councilman from each ward, to be determined by lot at the first regular meeting after the election, shall hold his office for two years, and the other, to be determined in like manner, shall hold his office for four years; and biennially thereafter, one councilman shall be elected by the legal voters of each ward, and all of said officers shall hold their respective offices during their respective terms, and until their successors are elected and qualified. The clerk, assessor, treasurer and marshal, with the consent of the common council, may appoint deputies when necessary.

Councilmen to be elected for 2 and 4 years.

SEC. 3. That section seventeen of said act, which reads as follows: Sec. 17 amended;

"Sec. 17. Vacancies in the office of mayor, city judge, clerk or councilman, occurring in any manner, shall be filled by special election, ordered by the common council, and conducted in the same manner as the annual election therefor, and all vacancies in other offices shall be filled by the common council," be so amended as to read as follows:

Sec. 17. Vacancies in the office of mayor, city judge, clerk or councilman, occurring in any manner, shall be filled by special election, ordered by the common council, and conducted in the same manner as the biennial elections therefor, and all vacancies in other offices shall be filled by the common council.

Vacancies—how filled.

SEC. 4. That section forty-five, which reads as follows:

Sec. 45 amended

"Sec. 45. The clerk, under the direction of the common council, shall proceed to make out a tax duplicate for the current year, and on or before the first Monday of August of such year, shall deliver the same, with a warrant under the corporate seal signed by the mayor and attested by such clerk, attached thereto, to the treasurer of such city, directing him that of the goods and chattels of all and every person named in said duplicate, and of all persons whose names may be added thereto by him, he shall cause to be made by distress and sale, if necessary; the amount of tax charged against each of said persons named in said duplicate, by the first Monday in January next following, and make full return, report and final settlement thereof, by the first Monday in March next following," shall be amended to read as follows:

Sec. 45. The clerk, under the direction of the common council, shall proceed to make out the tax duplicate for the current year, and on or before the first Monday in August of such year, shall deliver the same, with a warrant under the corporate seal, signed by the mayor and attested by such clerk, attached thereto, to the treasurer of such city, directing him that of the goods and chattels of all and every person named in said duplicate, and of all persons whose names may be added thereto by him, he shall cause to be made, by distress and sale

Clerk to make out tax duplicate.

Treasurer to collect taxes and make report.

if necessary, the amount of tax charged against each of said persons named in said duplicate, and make report of his doings in the premises by the first Monday in January next following, and make full return, report and final settlement thereof by the third Monday in April next following.

Sec. 46 amended.

SEC. 5. That section forty-six, which reads as follows, viz:

"Sec. 46. If no goods or chattels can be found, out of which to make the tax charged against any person named on such duplicate, the treasurer shall sell any lot or land, or so much thereof as may be necessary, listed to such person, to pay the tax, with costs thereon; and the treasurer's certificate to the purchaser, shall state for what tax or taxes said lot or parcel of land was sold," shall be amended so as to read as follows:

Treasurer may sell real estate.

Sec. 46. If no goods or chattels can be found, out of which to make the tax, penalties, interest and costs charged against any person named on such duplicate, the treasurer shall sell any lot or land, or so much thereof as may be necessary, listed to such person, to pay the tax with interest, penalties and costs thereon; and the treasurer's certificate to the purchaser shall state for what tax or taxes, interest and penalties and costs said lot or parcel of land was sold.

Sec. 47 amended.

SEC. 6. That section forty-seven, which reads as follows, viz:

"Sec. 47. All taxes upon real estate shall, from the time the tax duplicate is completed, be a lien thereon to the same extent as a court of record, and shall have preference to any private charges upon the same; and all taxes upon personal property shall have preference over all private claims," shall be amended so as to read as follows:

Taxes a lien upon real estate.

Sec. 47. All taxes upon real estate shall, from the time the tax duplicate is completed, be a lien thereon to the same extent as a court of record of general jurisdiction, and shall have preference to any personal charges upon the same; and all taxes upon personal property shall have preference over private claims. There shall be a penalty of ten per centum upon the amount of taxes due by each person, when the same remains unpaid after the third Monday in March next succeeding the making out of the duplicate in each year, and six per centum per annum interest shall be charged thereon from said third Monday in March, both of which shall be assessed by the treasurer, and shall be a lien on said property to the same extent as the aforesaid taxes.

Penalty of 10 per cent after third Monday of March and interest 6 per cent.

Sec. 48 amended

SEC. 7. That section forty-eight, which reads as follows:

"Sec. 48. The treasurer shall not be required in any instance, to make a demand of taxes from the person charged therewith, but may, in his discretion, do so; and if any person charged with a poll tax upon any personal property, or any tax on real estate, shall fail, when called on, to pay the same, it shall be lawful for said treasurer to seize the goods and chattels of such defaulter forthwith," shall be amended to read as follows:

Sec. 48. The treasurer shall not be required in any instance, to make a demand of taxes from the person charged therewith, but may, in his discretion, do so; and if any person charged with a poll tax, or any tax upon personal property, or any tax upon real estate, shall fail, when called on, to pay the same, together with all interest, penalties and costs, it shall be lawful for said treasurer to seize the goods and chattels of such defaulter forthwith, and make sale thereof as in section fifty-one of said act is provided, to satisfy the same; and should there be a surplus after such sale and payment, he shall pay the same to the said person making such default.

Person failing to pay when called upon may have goods seized by treasurer.

SEC. 8. That section fifty, which reads as follows, *Sec. 50 amended.* namely:

"Sec. 50. After the first Monday in September, and before the first Monday in November, the treasurer shall proceed to collect the taxes on his duplicate, either by seizure and sale of the goods and chattels of the owner thereof, or by sale of the lot or parcel of land, or so much thereof as may be necessary upon which the taxes are in whole or in part levied, to pay the same, and taxes assessed on the personal property of the owner thereof, together with the costs accrued or to accrue in advertising, selling, and conveying the lot or land; *Provided*, that the treasurer may, at any time, after the first Monday in November, seize and sell the goods and chattels of any person on such duplicate, if he deems it necessary to secure the tax against any such person," shall be amended to read as follows:

Sec. 50. After the first Monday in September, and before the first Monday in March, the treasurer shall proceed to collect the taxes on his duplicate, either by seizure and sale of the goods and chattels of the owner thereof, or by sale of the lot or parcel of land, or so much thereof as may be necessary upon which the taxes are in whole or in part levied, to pay the same and taxes assessed on the personal property of the owner thereof, together with the penalty, interests and costs, accrued or to accrue in advertising, selling and conveying the lot or land; *Provided*, that the treasurer may, at any time after the third Monday in March, seize and sell the goods and chattels of any person on such duplicate, if he deem it necessary to secure the tax against any such person.

Between Sept. & March, treasurers shall collect by seizure.

Provided.

Sec. 52 amended.

SEC. 9. That section fifty-two, which reads as follows, viz :

"Sec. 52. Such sale shall be by public auction, and no more property shall be sold than sufficient to pay the tax, cost and charges; and if convenient to be sold in parcels, and if sold for more than the amount necessary, the surplus shall be returned to the owner thereof, and cost for which it was sold; and any owner or claimant thereof, his agent or attorney may redeem the same upon the terms and in like manner as the lands sold for State and county taxes, are redeemed, by payment to the city clerk," shall be amended so as to read as follows :

Sale shall be by auction.

Sec. 52. Such sale shall be by public auction, and no more property shall be sold than sufficient to pay the tax, penalties, interest, costs and charges; and, if convenient, it shall be sold in parcels, and if sold for more than the amount necessary, the surplus shall be returned to the owner thereof.

Sec. 53 amended.

SEC. 10. That section fifty-three, which reads as follows, viz :

"Sec. 53. In selling lots and parcels of land, the treasurer shall offer the least quantity thereof that any bidder will take, and pay the amount of tax and cost assessed, and he shall make, [seal] sell and acknowledge before some competent authority, a certificate of the land thus sold to such person. Before making such sale, the treasurer shall give notice not less than twenty days, in a newspaper printed and published in said city, that on a certain day therein named, he will offer for sale the lands and lots on which taxes shall remain unpaid, or so much thereof as shall be necessary to pay said taxes and the costs of seizure and sale. If such city is a county seat, it shall be made at the court house door; if not, it shall be made at the outer door of the city hall, or other place of meeting of the common council," shall be amended to read as follows :

In selling treasurer shall offer least parcel of land that is sufficient

Sec. 53. In selling lots and parcels of land, the treasurer shall offer the least quantity thereof that any bidder will take, and pay the amount of tax and penalty, interest, damages and costs assessed, and he shall make, seal and acknowledge before some competent authority, a certificate of the land thus sold to such person. Before making such sale, the treasurer shall give notice not less than twenty days in a newspaper printed and published in said city, that on a certain day therein named, he will offer for sale the lands and lots on which taxes shall remain unpaid, or so much thereof as shall be necessary to pay said taxes, penalties, interest and all costs and charges made by reason of the failure to pay said taxes. If such city is a county seat, it shall be made at the court house door; if not, it shall be made at the outer door of the city hall, or other place of meeting of the common council.

Treas. shall give notice of sales.

Sec. 55 amended.

SEC. 11. That section fifty-five, which reads as follows, viz :

"Sec. 55. Such treasurer shall, by the first Monday of March in each year, make return of the tax list and warrant to him, with a full account of his doings thereon, and make a final settlement with the common council of such city. Such return shall state specifically the aggregate amount of money collected and received, and the amount remaining unpaid on such duplicate, with the name of the defaulters, and the cause of the failure to enforce payment thereof, and shall be verified by the affidavit of such treasurer," shall be amended so as to read as follows, viz:

Sec. 55. Such treasurer shall, by the third Monday of April in each year, make return of the tax list and warrant to him, with a full account of his doings thereon, and make a final settlement with the common council of such city. Such return shall state specifically the aggregate amount of money collected and received, and the amount remaining unpaid on such duplicate, with the names of the defaulters, and the cause of the failure to enforce payment thereof, and shall be verified by the affidavit of such treasurer.

Treasurer shall make return and settlement by 3rd Monday of April

SEC. 12. That section 69, which reads as follows, viz: Sec. 69 amended.

"Sec. 69. In case any of the owners of lots or parcels of ground on which such assessments have been made, shall fail or refuse, for the space of twenty days after the date of the estimate, to pay the amount due by them to such contractor, and such contractor shall have filed his affidavit with the clerk of said city, stating that in part, or if any, how much of such assessment has been paid and the amount remaining unpaid, it shall be lawful for the common council at the request of such contractor to cause a precept to issue for the collection of any such assessments or any unpaid balance thereof, under the corporate seal signed by the mayor and attested by the clerk, setting forth the name of the person against whom the assessment is made, the description of the lot or land on which it is made, the amount of such assessment and the date of the estimate or estimates, and such precept shall be directed to the treasurer of such city, commanding him to make such assessment or unpaid balance thereof within ten days, after receiving such precept, of the owner in whose name such assessment is made, either personally or at his last or usual place of residence, or if such owner be unknown, or not a resident of such city, then by publication for two weeks in a newspaper printed and published in the city, or in the county wherein such city is situate, briefly setting forth the substance of such precept and giving notice that if such assessment is not paid within twenty days after such publication, he will proceed to make the same by levy and sale of the lot or land wherein the same is assessed. Any owner of land or his representative, aggrieved by such precept, may appeal therefrom within twenty days after such demand or publication, to the common pleas court of the county wherein such city is situated, upon filing sufficient bond with the city clerk, conditioned for the payment of whatever judgment may be rendered against such appellant in such court, and such appeal shall stay all further proceedings by such treasurer, and said court shall have full jurisdiction to hear and determine such appeal. If no appeal shall have been taken, as aforesaid, then it shall be the duty of such treasurer within ten days after the expiration of said twenty days, to lay said precept upon the lot or land therein described, and to sell the same, or so much thereof, as may be necessary to pay such assessments, with costs and charges. But before any such sale he shall give notice of the time and place

thereof, by advertising the same for three weeks successively in a newspaper printed and published nearest to such lot or land, if any such be printed and published within the county wherein such city is situated, and by posting up written or printed notices thereof in at least three public places in said city, and every such sale shall be by public auction, and upon or near the premises, or in the city court room of said city, in the discretion of said treasurer, and the sale of said lot or land previous or subsequent to the date of such estimate and subsequent to the date of such petition, or determination of the common council to make such improvement without petition, shall invalidate or effect any sale thereof in pursuance of this act. Upon the sale of any lot or land by virtue of such precept, and the payment of the purchase money, the treasurer, or in case of his death or going out of office, his successor shall execute, acknowledge and deliver to the purchaser, a certificate of conveyance for the premises, which shall be valid and effectual to convey all the right, title and interest of any such owner or purchaser from him, as aforesaid, except as hereinafter provided. In case the purchaser of any real estate under a precept, as aforesaid, having paid the purchase money therefor, shall die before a certificate of conveyance, as herein provided, shall have been executed to him, the treasurer shall convey the same to the heirs or devisees of such deceased purchaser. The proceeds of any such sale shall be applied as follows, to-wit: *First*, to the payment of said assessment with interest thereon from the date of such estimate, and all costs accrued thereon by reason of said sale, and *secondly*, the residue of such proceeds shall be paid to the owner, or his or her heirs or representatives, of such real estate, or if unknown, it shall be paid into the city treasury, and such city shall at all times be responsible to such owner, heirs or representatives for such residue. The purchaser under each receipt shall hold such real estate subject to the lien of the unpaid part of its proportion of the whole cost of the improvement. The treasurer shall be entitled to a commission of five per centum on the first one hundred dollars, and three per centum on any excess above that sum, but when the money is paid to him without sale, one-half commission only shall be received by him; for levying on the real estate and advertising the same, he shall receive one dollar; for personal demand of payment, twenty-five cents; for demand by publication, fifty cents; for the return of the precept, with his doings thereon, one dollar; for making certificate on sale of real estate, one dollar; he shall endorse on said precept the time of receiving the same, and within three months thereafter he shall make a return thereof to the clerk with his proceedings thereon. Any purchaser failing to pay the purchase money shall be subject to the like penalties and proceedings as purchasers at sheriffs' sales are by the laws of this State. The owner of any lot or land sold as aforesaid, or his agent or attorney, heirs or representatives, may redeem the same at any time within one year after the day of sale by paying to the purchaser, or to the city treasurer for the use of the purchaser, or his heirs or assigns, the sum mentioned in his certificates, and the amount of all subsequent assessments paid by the purchaser with fifty per centum on the whole sum, and interest from the day of purchase or time of payment: *Provided*, That infants, idiots, insane persons and *femmes covert*, may redeem any such lot or land belonging to them sold for assessment as aforesaid, within one year from the expiration of such disability. Claimants of a part of such land, or of any undivided part of the same, may redeem the whole as other owners may redeem. If such owner, or any person on his behalf, shall redeem such land within one year as aforesaid, at the expiration thereof, and on the production of the certificate of purchase, the treasurer shall execute to the purchaser, his heirs or assigns, in the name of the State, a conveyance of the real estate so sold, which shall vest in the grantee an absolute estate in fee simple, subject, however, to all claims which the city may have thereon for assessments, or liens, or incumbrances. Such

certificate and final conveyance shall resemble, as nearly as may be, the certificate and conveyance for tax sales," shall be so amended as to read as follows:

Sec. 69. In case any of the owners of lots or parcels of ground on which such assessments have been made shall fail or refuse for the space of twenty days after the date of the estimate, to pay the amount thereof due by such person to such contractor, such contractor or some person on his behalf shall file his affidavit in the clerk's office of said city, stating that the whole or some part of said assessment, showing the amount paid, and the amount due remains unpaid, that the estimate thereof has been duly made, and that the work estimated has been done according to contract. It shall be the duty of the clerk at the next or any subsequent meeting of the common council to report the said affidavit to the council, whose duty it shall be to cause a precept to issue for the collection of such assessment, or any unpaid balance thereof, which precept shall be signed by the mayor and attested by the clerk, and sealed with the seal of said city, and shall set forth the name of the person against whom the assessment is made, the description of the lot or land on which it is made, the amount of such assessment and the date of the estimate, which shall be directed to the treasurer of such city, commanding him to make such assessment or unpaid balance thereof, within ten days after receiving such precept of the owner, in whose name such assessment is made, either personally, or at his last or usual place of residence, or if such owner be unknown, or not a resident of such city, then by publication for three weeks successively in a weekly newspaper printed and published in the city, briefly setting forth the facts of the estimate, the amount due, that the work has been done as contracted, the name of the person whose property is to be sold, the description of the property and the date of the order of said precept by the said council, and giving notice that if such assessment is not paid within twenty days after publication, he will proceed to make the same by levy and sale of the lot or land wherein the same is assessed. Any owner of land, or his representative, aggrieved by such precept, may appeal therefrom within twenty days after such demand or publication to the court of common pleas of the county wherein such city is situated, upon filing sufficient bond with the clerk of said city, conditioned for the payment of whatever judgment may be

Owner failing to
or refusing to pay
contractor.

rendered against such appellant in said county court, and such appeal shall stay all proceedings by such treasurer; and the trial of the said appeal shall be conducted as other trials of civil causes are conducted in said court. *Provided*, That no question of fact shall be tried which may arise prior to the making of the contract for the said improvement under the order of council. The clerk shall, upon the filing of said bond, forthwith make out and certify, under his hand and official seal, a full, true, and complete copy of all papers connected in any way with the said street improvement beginning with the order of the council directing the work to be done, and contracted for, and including all notices, precepts, orders of council, bonds, and other papers filed in said matter, which transcript shall be in the nature of a complaint, and to which the appellant shall answer upon rule; and in case the court or jury shall find, upon trial, that the proceedings of said officers, subsequent to said order directing the work to be done, are regular, that a contract has been made, that the work has been done, in whole or in part, according to the contract, and that the estimate has been properly made thereon, then said court shall direct the said property to be sold and conveyed by the sheriff thereof, as the said clerk is herein-after directed to sell and convey property liable for street improvements: *Provided*, That nothing herein shall be so construed as to prevent any person from obtaining an injunction upon the proceedings prior to the making of any such improvements. If no such appeal shall have been taken as aforesaid, then it shall be the duty of such treasurer, within ten days after the expiration of said twenty days, to lay said precept upon the lot or land therein described, and to sell the same, or so much thereof as may be necessary to pay such assessments with costs and charges; but before any such sale, he shall give notice of the time and place thereof, by advertising the same for three weeks successively in a newspaper printed and published nearest to such lot or land, if any such be printed and published within the county wherein such city is situated, and by posting up written or printed notices thereof, in at least three public places in said city, and every such sale shall be by public auction, and upon or near the premises, or in the city court room of said city, in the discretion of said treasurer; and no sale of said lot or land previous or subsequent to the date of such estimate and subsequent to the date of such petition, or determination of the

common council to make such improvement without petition, shall invalidate or affect any sale thereof in pursuance of this act. Upon the sale of any lot or land by virtue of such precept, and the payment of the purchase money, the treasurer, or in case of his death or going out of office, his successor shall execute, acknowledge and deliver to the purchaser a certificate of conveyance for the premises, which shall be valid and effectual to convey all the right, title and interest of any such owner or purchaser from him as aforesaid, except as hereinafter provided. In case the purchaser of any real estate under a precept as aforesaid, having paid the purchase money therefor, shall die before a certificate of conveyance, as herein provided, shall have been executed to him, the treasurer shall convey the same to the heirs or devisees of such deceased purchaser. The proceeds of any such sale shall be applied as follows, to-wit: *First*, to the payment of said assessment with interest thereon from the date of such estimate, and all costs accrued thereon by reason of said sale; and *secondly*, the residue of such proceeds shall be paid to the owner, or his or her heirs or representatives of such real estate; or if unknown, it shall be paid into the city treasury; and such city shall at all times be responsible to such owner, heirs or representatives for such residue. The purchaser, under each receipt, shall hold such real estate subject to the lien of the unpaid part of its proportion of the whole cost of the improvement. The treasurer shall be entitled to a commission of five per centum on the first hundred dollars, and three per centum on any excess above that sum; but when the money is paid to him without sale, one-half commission only shall be received by him; for levying on the real estate and advertising the same, he shall receive one dollar; for personal demand of payment, twenty-five cents; for demand by publication, fifty cents; for return of the precept, with his doings thereon, one dollar; for making certificate on sale of real estate, one dollar; he shall indorse on said precept the time of receiving the same, and within three months thereafter he shall make return thereof to the clerk with his proceedings thereon. Any purchaser failing to pay the purchase money, shall be subject to the like penalties and proceedings as purchasers at sheriffs' sales are by the laws of this State. The owner of any lot or land sold as aforesaid, or his agent or attorney, heirs or representatives, may redeem the same at any time within one year after the day of sale,

How contractor i
to get pay.

by paying to the purchaser, or to the city treasurer for the use of the purchaser, or his heirs or assignees, the sum mentioned in his certificate, and the amount of all subsequent assessments paid by the purchaser, with fifty per cent. on the whole sum, and interest from the date of purchase or time of payment: *Provided*, That infants, idiots, insane persons and *femmes covert* may redeem any such lot or land belonging to them sold for assessment as aforesaid, within one year from the expiration of such disability. Claimants of a part of such land, or of any undivided part of the same, may redeem the whole as other owners may redeem. If such owner, or any person on his behalf, shall fail to redeem such land within one year as aforesaid, at the expiration thereof, and on the production of the certificate of purchase, the treasurer shall execute to the purchaser, his heirs or assignees, in the name of the city, a conveyance of the real estate so sold, which shall vest in the grantee an absolute estate in fee simple, subject, however, to all claims which the city may have thereon for assessments, or liens, or incumbrances. Such certificate and final conveyance shall resemble as nearly as may be, the certificate and conveyance for tax sales.

Sec. 78 amended. SEC. 13. That section seventy-eight, which reads as follows, namely:

"Sec. 78. Whenever a petition, signed by thirty or more freeholders, is presented to the common council, praying for the creation of a new and additional ward, and such petitioners are residents of and shall have freehold within the limits of the proposed ward, and have attached thereto a roll, containing an enumeration of the inhabitants thereof, verified by affidavit, such council, if they find that the proposed ward has the requisite population, and that the petition is genuine, shall submit the question to the voters of the city at the next annual election, by publishing the proposition in the general notice of elections, and the question shall be decided by ballot, "yes" or "no," as is provided in section six of this act, in relation to the incorporation of cities," be amended to read as follows, namely:

New wards; how created.

Sec. 78. Whenever a petition, signed by thirty or more freeholders, is presented to the common council, praying for the creation of a new and additional ward, and such petitioners are residents of and shall have freehold within the limits of the proposed ward, and have attached thereto a roll containing an enumeration of the inhabitants thereof, verified by affidavit, such council, if they find that the proposed ward has the requisite population, and that the petition is genuine, shall submit the question to the voters of the city, at the next biennial election, by publishing the proposition in the

general notice of elections, and the question shall be decided by ballot, "yes" or "no," as is provided in section six of this act, in relation to the incorporation of cities.

SEC. 14. That section eighty-four, which reads as Sec. 84 amended. follows, namely:

"Sec. 84. When any city shall desire to annex contiguous territory thereto, not platted or laid off, the common council shall present to the board of county commissioners a petition, setting forth the reason for such annexation, and shall accompany the same with a map or plat, accurately describing, by metes and bounds, the territory proposed to be attached, which shall be verified by affidavit, such common council shall give thirty days' notice by publication in one or more newspapers of the city of the intended petition, stated in such notice, the territory to be annexed," be so amended as to read as follows, namely:

Sec. 84. When any city shall desire to annex contiguous territory thereto, not platted or laid off, the common council shall present to the board of county commissioners a petition setting forth the reasons for such annexation, and shall accompany the same with a map or plat, accurately describing by metes and bounds the territory so proposed to be attached, which shall be verified by affidavit. Such common council shall give thirty days' notice by publication in one or more newspapers of the city of the intended petition, stating in such notice the territory to be annexed; *Provided, however,* that territory of five acres or upwards, belonging to any person, and used for gardening or agricultural purposes, shall not be annexed unless by the consent of the owner or owners thereof.

Contiguous territory; how annexed.

SEC. 15. The treasurers of the cities incorporated under the foregoing act, are hereby authorized to assess the sum of ten per centum upon the amount of all taxes now due, in case the same shall remain unpaid after the third Monday in March next, and to charge interest at the rate of six per centum per annum upon the said taxes from and after the said third Monday in March, and to make the same by distress and sale, as hereinbefore provided.

Treasurers authorized to assess ten per cent. on taxes due, and 6 per cent. interest.

SEC. 16. Inasmuch as it is important that the cities in this State should be enabled at the earliest opportunity to enjoy and avail themselves of the provisions of this act, it is hereby declared that an emergency exists requiring the immediate taking effect of this act, and the same shall therefore be in force from and after its passage, and publication in the Indiana State Sentinel and Indiana State Journal, newspapers printed in Indianapolis.

Emergency.

CHAPTER CXXXIII.

AN ACT to provide for the more uniform mode of doing township business, prescribing the duties of certain officers in connection therewith, and to repeal all laws conflicting with this act.

[APPROVED FEBRUARY 18, 1859.]

Townships may
be laid off.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the board of county commissioners in each county in this State, may lay off and divide the same into any number of townships that the convenience of the citizens may require, accurately defining the boundaries thereof, and may from time to time, make such alterations in the number, names and boundaries of such townships as they may deem proper.

Boundaries to be
recorded.

SEC. 2. The descriptions of the boundaries of such townships shall be entered at full length in the records of such boards, as also, all alterations in such boundaries and all new and additional townships which may be formed.

Townships and
road districts now
located.

SEC. 3. The townships and road districts now established, shall remain as they are subject to alterations or subdivisions as provided in this act.

Townships to be
body corporate.

SEC. 4. Each and every township, that now is or may hereafter be organized in any county in this State, is hereby declared a body politic and corporate, by the name and style of _____ township of _____ county, according to the name of the township and county in which the same may be organized, and by such name may contract and be contracted with, sue and be sued in any court having competent jurisdiction.

Township trustee
to be elected.

SEC. 5. The qualified voters in each township shall, on the first Monday in April, annually, at the usual place or places of holding elections in such township, elect a township trustee, who shall hold his office for one year, and until his successor is elected and qualified, and before entering upon the duties of his office he shall take an oath or affirmation before some person authorized to administer the same, for the faithful performance of those duties, and execute a bond conditioned as in ordinary official bonds, with at least two freehold sureties, in a penalty of not less than double the amount of money which may come into his hands at any time during his term by virtue of his office, to the acceptance of

Trustee shall give
bond, etc.

the county auditor, which bonds shall remain on file in the office of the auditor.

SEC. 6. The duties of township trustee shall be—

Duties of trustee.

First.—To keep a true record of his official proceedings in a book to be provided for that purpose.

Second.—To receive all moneys belonging to the township, and pay the same out according to law, as right and justice shall require.

Third.—To divide his township into convenient highway districts, and make such alterations in the same as may be necessary.

Fourth.—To fill all vacancies that occur in the office of supervisor of highways in his township.

Fifth.—To see to a proper application of all moneys belonging to the township for road, school or other purposes, and perform all the duties heretofore required of the township trustees, clerk and treasurer, under the supervisors and school acts.

Sixth.—To have the care and management of all property, real and personal, belonging thereto, and to superintend all the interests thereof.

Seventh.—To cause a record to be made accurately defining the boundaries and number of each road district, and all alterations made in the boundaries in such district, shall be accurately described by the record.

Eighth.—Shall have power to administer oaths where necessary, in the discharge of the duties of his office.

SEC. 7. The township trustee shall be inspector of elections, overseer of the poor, and fence viewer.

To be inspector of elections, overseer of the poor and fence viewer. Further duties With county board to levy township tax.

SEC. 8. The trustee shall superintend all the pecuniary concerns of the township, and shall, at the March session of the county board, annually, with the advice and concurrence of the board of county commissioners, levy a tax on the property of such township, for township, road and other purposes, and report the same to the county auditor, who shall enter the same on the proper tax duplicate, in a separate column or columns, and the treasurer shall collect the same as other taxes are collected. But in case of failure of such trustee and commissioners to concur, then the board of county commissioners shall determine upon and levy such township, road, and other taxes.

SEC. 9. All vacancies in the office of township trustee shall be filled by the board doing county business in term time, or by the auditor in vacation; and every trustee so appointed, shall continue in office until his successor is elected and qualified.

Vacancy, how filled.

To examine and settle accounts against and in favor of township, &c.

SEC. 10. The trustee shall examine and settle all accounts and demands chargeable against his township, and shall keep an accurate account current with his township, which shall be so arranged and kept as to show the amount received and paid out on account of separate and distinct funds, and to whom paid, as well as the whole receipts and expenditures, by one general account, and shall file all accounts as vouchers, and report the same to the county board in his annual settlement therewith, which report shall be verified by his affidavit.

Settle with supervisors and report to county commissioners.

SEC. 11. The township trustee shall, annually, on the last Saturday in February, settle with and audit the accounts of supervisors of roads in his township, and shall within five days thereafter, make to the board of county commissioners, a complete report of the receipts and expenditures of his township during the preceeding year, which report shall clearly exhibit the amount received and expended on account of township, road, school, and other purposes, as well as the proper balance remaining on hand; and he shall within ten days thereafter, record at length, a copy of such report in the township record, and publish the same by posting up a certified copy thereof at the place or places of holding elections.

Shall record report in township record.

At expiration of term to deliver books, &c., to successor.

SEC. 12. Such trustee shall, at the expiration of his term, deliver to his successor, all moneys, books and papers belonging to his township.

County treasurer to pay money belonging to township to trustee.

SEC. 13. The county treasurer, immediately after his annual settlement with the county auditor, shall, on the warrant of such auditor, pay over to the proper township trustee, all moneys in his hands, belonging to each township, which warrant of such auditor shall be receipted for by the trustee receiving it.

To furnish sworn account of his services to county board.

SEC. 14. The trustee, at the time of settling with the board of county commissioners, as provided in section eleven of this act, shall file with said board an itemized statement, verified under oath, of his charges and services as trustee, upon which said commissioners shall allow him such reasonable compensation as they deem just, not to exceed one dollar and fifty cents per day for all time necessarily employed, which shall be paid out of the funds of the proper township. *Provided, however,* That when such trustee has served but part of a day, he shall be allowed in payment only in proportion to the time spent.

SEC. 15. The record and other books of the township trustee shall always be open for public inspection.

Records to be kept open.

SEC. 16. The offices of the township treasurer and township clerk are hereby abolished after the election and qualification of the trustee herein provided for. And after such election and qualification, it shall be the duty of such clerk and treasurer to deliver to such trustee all moneys, books, papers, furniture, and all other property belonging to their township.

Offices of treasurer and clerk abolished.

SEC. 17. In all prosecutions against a township, process shall be served by delivering a certified copy thereof with the township trustee, at least ten days before the return day of such process, and the trustee may appoint an attorney to defend any suit or proceeding in which the township may be interested.

Prosecutions against townships

SEC. 18. Should any person, elected or appointed to the office of trustee, under this act, after having accepted such office, fail to perform any duty required of him by any provision of this act, such person so failing, shall forfeit and pay to such township any sum not exceeding one hundred dollars, to be recovered in a civil action in the name of the township, before any court having competent jurisdiction.

Trustee failing to perform his duty liable to forfeit.

SEC. 19. The township trustee shall in no case, have any power to change, vacate, or open any highway in any township, in any county; but such power shall be vested in the county commissioners of the county, under the same regulations as to the petition, notice and appointment of viewers, and assessment of damages as is now provided by law in cases effecting more than one township, and that all business now pending before any board of township trustees, in relation to changing, vacating and opening highways, be transferred to the board of county commissioners of the proper county.

Trustee cannot change or open highways.

Road business transferred to county board.

SEC. 20. All laws and parts of laws heretofore enacted, which are in conflict with this act, are hereby repealed.

Former laws repealed.

SEC. 21. An emergency is hereby declared to exist for the immediate taking effect of this act, and therefore it shall take effect, and be in force from and after its passage.

Emergency.

CHAPTER CXXXIV.

AN ACT supplemental to an act entitled "an act to provide for the more uniform mode of doing township business, prescribing the duties of certain officers in connection therewith, and to repeal all laws conflicting with this act," approved Feb. 18, 1859, so as to provide for the levy of the township taxes for the year 1859, at the June term of the County Board.

[APPROVED MARCH 5, 1859.]

Township taxes
for 1859 to be levied
at June term
of Co. board.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the tax required to be levied by township trustees under section eight of an act entitled "an act to provide for the more uniform mode of doing township business, prescribing the duties of certain officers in connection therewith, and to repeal all laws conflicting with this act," approved February 18, 1859, shall, for the year 1859, be levied by each township trustee at the June session of the county board, in the manner provided in said act, but in all subsequent years, at the time fixed by said section.

Emergency.

SEC. 2. Because of a necessity of a levy of township taxes for the present year, it is hereby declared that an emergency exists, and that this act shall be in force from and after its passage.

CHAPTER CXXXV.

AN ACT to provide for the making and authentication of transcripts from the records of the Recorder's office in certain cases, and for the admissibility in evidence of the same, or copies thereof.

[APPROVED MARCH 5, 1859.]

Record of land
transferred from
one county to another,
to be kept
in separate book.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That whenever any county shall have been formed out of territory lying in whole or in part within the limits of any other county or counties, it shall be the duty of the board of commissioners of the county so formed, to procure a suitable book, and to cause to be therein copied from the records of the recorder's office of such other county or counties, all

deeds of real estate within such territory, that shall have been recorded before the organization of such newly formed county.

SEC. 2. Such record book, made in pursuance to this act, or heretofore ordered by such county board, shall be deposited in the office of the recorder of such county; and when it is duly certified under the hand and official seal of the recorder from the records of whose office it shall have been copied, that the same is a true, full and perfect copy of such instrument as it appears on record in his office, such book, or a duly certified transcript therefrom, shall be admitted in evidence, with the like force and effect as the original record.

When duly certified to be admitted as evidence.

CHAPTER CXXXVI.

AN ACT to authorize County Treasurers to assess property which may be omitted by assessors, and to legalize assessments heretofore made by Treasurers.

[APPROVED MARCH 3, 1859.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That whenever it shall appear to the treasurer of any of the several counties of this State, that the property of any person liable to pay tax, has not been assessed by the county or township assessor, it shall be the duty of such county treasurer to assess the property of such person, and place the same upon the tax duplicate, and collect the taxes thereon the same as if it had been assessed by the legal assessor; *Provided, however*, that all property assessed under the provisions of this act, shall be assessed at a fair cash value; but the treasurer shall not be required to assess such property upon actual view, nor to furnish the owner thereof with a blank list.

Co. treas. to levy tax on property neglected to be assessed by township assessor.

SEC. 2. *Be it further enacted*, That the assessments of property and the collection of taxes heretofore made by the several county treasurers of this State, be, and the same is hereby legalized.

Former assessments by Co. treas. legalized.

SEC. 3. Inasmuch as there is no law authorizing county treasurers to assess property that has been omitted by the county or township assessors, it is hereby de-

Emergency.

clared that an emergency exists for the immediate taking effect of this act; therefore, this act shall take effect and be in force from and after its passage.

CHAPTER CXXXVII.

AN ACT providing for the appropriation of a sum not exceeding five hundred dollars, from the State Treasury, to aid the Indiana Historical Society.

[APPROVED MARCH 4, 1859.]

\$500 to be appropriated to Historical Society.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That a sum not exceeding five hundred dollars, be, and the same is hereby appropriated from the State Treasury, to be paid out under the same rules and regulations as are now provided for by law for the payment of moneys from the State Treasury, to aid the Indiana Historical Society in the purchase of the different kinds of transcripts, papers, manuscripts, documents, &c., as are calculated to shed light on the early civil, social and political history of the State of Indiana; *Provided, however*, that no warrant shall be issued authorizing the drawing of said sum, or any part thereof, from the State Treasury, until there shall be a certificate presented, signed by the president and countersigned by the Secretary, that said Indiana Historical Society is duly organized according to the rules and regulations for the organization of the same.

Provide.

To be paid on order of executive committee.

SEC. 2. Said amount of five hundred dollars, or any part thereof may be paid over to said Society on the order of the executive committee, signed by the president and countersigned by the secretary of said Society.

How to be appropriated by society.

SEC. 3. The amount hereby appropriated, or any part thereof, shall only be paid out by said Indiana Historical Society, or its officers, for the purpose of purchasing papers, manuscripts, transcripts and documents, with such other matter as is calculated to shed light on the early history of the State of Indiana, and for the transit of the same to the capital of the State.

Sec. of society to report to Gen. Assembly number members, etc.

SEC. 4. The secretary of the Society shall present to the next session of the General Assembly, or to either branch thereof, an exhibit of the number of members

belonging to said Society, the amount of funds received from members, or by donation, and the amount received from the State Treasury; the amount expended, and for what purpose, and such other matters as may advise the Legislature of the doings of the Society.

SEC. 5. It is hereby declared that an emergency exists for the passage of this act; it is therefore to take effect and be in force from and after its passage. Emergency.

CHAPTER CXXXVIII.

AN ACT to provide a treasury system for the State of Indiana, for the manner of receiving, holding and disbursing the public moneys of the State, and for the safe keeping of public moneys.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the room now occupied, or which may be hereafter assigned to and occupied by the Treasurer of State, together with the safes, vaults and other proper and necessary means for the security and safe keeping of the public money thereto belonging, shall constitute the treasury of the State of Indiana; and the Treasurer of State shall be required to use the treasury so constituted, as the sole place for the deposit and safe keeping of the moneys of the State, (except as hereinafter provided); and the Auditor and Treasurer of State, under direction of the Governor, are required to provide such additional locks, safes and vaults as may render the public funds absolutely secure against fire and burglars; and appropriation is hereby made of such money as may be necessary to obtain the same. What constitutes State Treasury.

SEC. 2. From and after the first day of October, 1859, all State revenue, and all dues accrued, accruing, or that may accrue to the State, or to any fund belonging to or under charge of the State, or of any officer thereof, required by law to be paid in money; and all disbursements from the State Treasury shall be paid in gold or silver coin, or in the notes of solvent specie-paying banks regularly organized under the banking laws of this State. Revenue to be collected in specie or solvent Indiana banks.

SEC. 3. The moneys derived from the following sources shall be paid into the State Treasury: Different moneys paid into treasury.

Taxes.

First. All moneys derived from taxes assessed and collected under any law of this State providing for the assessment and collection of a revenue for State purposes.

Borrowed money.

Second. All moneys borrowed on the credit of the State by authority of law, by the Treasurer or any other authorized agent of the State.

Proceeds of State bonds.

Third. All moneys received on account of the sale of State bonds heretofore disposed of for internal improvement purposes.

Proceeds of lands and lots held in trust.

Fourth. All moneys and interest thereon arising from the sale of lands, lots, or other property belonging to or held in trust by the State.

Proceeds of seminary, college and saline lands.

Fifth. All moneys arising from the sale of seminary, college and saline lands or reservations, or other lands belonging to, or held in trust by the State.

Trust money.

Sixth. All moneys and funds belonging or loaned to, or held in trust by the State, where no other disposition thereof is made or required by law.

Interest of money, etc.

Seventh. All interest, profits, income and accretions of every kind, arising or derived in any manner, from any money or funds specified in this section.

Fees and perquisites of public officers.

Eighth. Every fee, perquisite, or bonus received by any State officer in the discharge of the duties of his office.

Dividends of bank stocks.

Ninth. All dividends arising from bank or other stock appropriated to the payment of any part of the interest of the public debt.

State debt tax.

Tenth. The money accruing from the tax levied for the State debt sinking fund, and all moneys in the hands of any officers or persons belonging to such fund; and it is made the duty of every officer having any such money in his charge or possession, to pay the same immediately into the treasury of State.

Proceeds of security bonds.

Eleventh. All moneys arising from the sale of bonds or stocks deposited under the general banking law, and all money accruing to the State, or to any fund of the State.

Treasurer shall give bond.

SEC. 4. The Treasurer of State shall, before entering upon the duties of his office, execute an official bond in the penal sum of one hundred and fifty thousand dollars, with twelve or more good and sufficient sureties, residents of this State, and freeholders, who, together, shall be worth double the amount of the penalty, to be approved by the Governor. The condition of such bond shall be for the faithful discharge of the duties of his office, for the fidelity of all persons by him entrusted

Condition of bond.

with any of the concerns thereof; that he will render just and true accounts of the condition of the treasury of State when required by law, and that at the end of his term or sooner [or at the] expiration of his office, he will pay and deliver to his successor, or to such person as may be authorized to receive them, all moneys, securities, assets, and property of every kind belonging to the treasury of State, in his hands as Treasurer of State, or in the hands of any of his employees; and if at any time, the Governor, with the Auditor and Secretary of State, ascertain that by reason of failures or otherwise, the securities are not worth the amount above required, the Governor shall require such other and further security as shall make the bond good and sufficient; and if the Treasurer fails to give such additional security within thirty days after notice, the Governor shall, by proclamation, declare his office vacant, and appoint his successor.

SEC. 5. The Treasurer of State is expressly prohibited from loaning, using, or permitting any other person to use or deposit in any bank, or with any person or persons, or exchanging for other funds except as permitted by this act, any of the money, funds, stocks, or other property collected or received by him, or that may be paid or received into the State treasury, but shall safely keep all such moneys, funds, stocks, and other property until the same is directed to be paid out or transferred in the manner prescribed by law, and such treasurer is expressly prohibited from receiving in any manner, for his own use, any interest, premium, gratuity, bonus, or benefit whatever, by the disposition of, or arising out of any money or property belonging to the State, or to any county, or to any fund of the State or county, or of any loan obtained for the State or for any county; but whatever is so received, shall, by him, be fully accounted for.

Prohibited from loaning or using moneys, etc.

SEC. 6. Every person making payments into the treasury of State, shall furnish to the Auditor of State a description of the liability on account of which such payment is to be made, and the Auditor of State, after careful examination of such documents or accounts, as the case may require, shall certify to the Treasurer of State the amount to be paid, and the fund to which it is to be paid, and shall make his draft in favor of the Treasurer upon the person making the payment, which certificate and draft shall then be presented by such person to the Treasurer of State, who shall receive such

Manner of paying money into treasury.

money; number, register, file and preserve such draft and certificate, and shall give a receipt for the amount paid, specifying the liability on account of which it is paid; and the Treasurer of State is expressly prohibited from receiving any money whatever into the State treasury, or on account of any fund thereof, except it be paid upon draft as herein provided.

Treasurer to pay only on warrant of Auditor.

Auditor authorized to examine all accounts, etc.

SEC. 7. The Treasurer of State is expressly prohibited from paying any money out of, or transferring any money from the Treasury of State, except upon the warrant of the Auditor of State, and the Auditor shall examine with care every demand and claim presented for payment, and shall be satisfied that every claim is just, legal and unpaid, before he shall allow, audit, or countersign it, and for that purpose may require the affidavit of the claimant, or other evidence; and he shall require every claim to specify the particular items of indebtedness; but when satisfied that any claim is just, legal and unpaid, and if there be money to the credit of the fund, and not before, the Auditor shall issue his warrant on the Treasurer for its payment out of the proper fund; and if there be money of such fund in the treasury when the warrant is presented, the Treasurer shall pay it, and not otherwise, and when paid the Treasurer shall take a receipt therefor on the back, and shall cancel the warrant with a canceling hammer, and shall register, file and preserve the same.

No warrant to be drawn when no funds are in treasury.

SEC. 8. The Auditor of State shall at no time draw a warrant upon the Treasurer of State unless there be money in the treasury belonging to the fund upon which the same is drawn to pay the same, and in conformity to appropriations made by law, and on money actually in the treasury subject to the payment of the same, and the Auditor of State shall enter upon his books the number, date, payee, and amount of every draft in favor of the Treasurer of State, and properly charge and credit the same to the appropriate fund, so as to keep an exact debit and credit account with each particular fund in the treasury; and the Auditor, whenever he issues a warrant, shall take the receipt of the person entitled thereto upon the face of the claim presented by such person, and carefully file and preserve such receipt as his voucher for issuing the warrant.

Treas. to keep cash book & double entry ledger.

SEC. 9. The Treasurer of State shall keep a cash book in the treasury, and shall enter therein, on the day when any money is received or warrants paid, in a fair and legible hand, the several amounts received, with

the number, date, and drawee of each draft, and the several amounts paid out, with the number, date, and payee of each warrant, specifying the particular fund for which each amount is received or paid, and shall at the close of every day carefully balance the book so as to show the exact amount of cash on hand, and shall also keep a ledger by double entry, into which he shall post from such cash book to the account of the several funds, the various amounts received or paid, and at the close of every month shall take a trial balance of such ledger, so as to show the exact cash condition of each fund. And the Treasurer with the Auditor of State, shall make out, sign, and cause to be published once, in two newspapers of general circulation, at Indianapolis, a statement of the exact amount of money in the State Treasury, at the close of business, on the last business day of each and every month, specifying the amount belonging to each particular fund.

Balance and trial sheets.

SEC. 10. On the first Monday of November, annually, the Treasurer of State shall make out, sign, and cause to be published, once a week, for one month, in two newspapers of general circulation, at Indianapolis, a condensed tabular statement exhibiting the receipts and expenditures of the public money during the fiscal year next preceding, and in such statement he shall particularly specify the amount of money in the treasury at the beginning of the fiscal year, the amount received during such year from each of the several sources of revenue, carefully distinguishing the same, and the amount in gross paid out under each of the various appropriations, the balance remaining to the credit of each particular fund, and the total amount remaining in the treasury at the close of the fiscal year. And the Treasurer of State shall also lay before the General Assembly, at the first day of every session thereof, a full exhibit and statement of all moneys received into and paid out of the treasury since his last report, showing under separate and appropriate heads, on what account and from what source received, and for what particular object or service the same has been paid out.

On first Monday in November to publish exhibit of the condition of Treasury.

Present same to Legislature.

SEC. 11. If, at any time, the Treasurer of State deems it proper that any moneys in the treasury of any county belonging or due to the State, should be paid into the treasury of the State, he shall so direct the treasurer of such county, and such treasurer shall transmit such money to the treasury of the State, in the manner and at the time so directed.

May require co. treasurer to pay over.

Embezzlement or peculation to be reported to Governor.

SEC. 12. If at any examination of the Treasury of State as provided by law, or if at any other time, there should be found any embezzlement or breach of trust on the part of the Treasurer of State, or any peculation or abstraction of moneys, securities or other property, committed by him, such fact shall be immediately reported to the Governor, who, in connection with the auditor and Secretary of State, shall make a careful examination, and if the fact be true, cause such treasurer to be arrested. The Governor shall forthwith appoint a deputy Treasurer of State, who shall qualify and give bond as required from the treasurer, and shall have exclusive control of the treasury, have the powers and perform the duties, and be subject to the liabilities of the Treasurer of State, until the Treasurer is acquitted or his successor is elected and qualified.

Governor may appoint deputy treasurer in such case.

Treasury, how examined and by whom.

SEC. 13. An inspection and thorough examination shall be had of the State Treasury whenever deemed necessary, by a committee of the General Assembly, or of either branch thereof, authorized by resolution for that purpose, or by a committee of persons not members of the General Assembly, appointed by resolution of the General Assembly. And it shall be the duty of Governor, whenever the law, or in his opinion the public interest require it, to appoint some competent and trustworthy accountant of the highest ability and skill, who, in connection with the Secretary of State, shall immediately, without previous notice or intimation of such intended examination and inspection, proceed to make a thorough and complete examination of all the books, vouchers, accounts, records, bonds, securities, claims, assets and effects, which are or should be in the treasury, and shall count all moneys in the treasury, and compare the books, vouchers, accounts, records, &c., with those of the Auditor of State, and all of which it is hereby made the duty of the said Auditor to place at their disposal on demand. The Treasurer of State shall, upon demand, submit to the inspection of such accountant and the Secretary of State, or to the committee of the General Assembly, or of either branch thereof, all his books, vouchers, accounts, records, and other papers, together with all vaults, safes, rooms or other apartments of his office. The Treasurer, or any of his clerks, or the Auditor, may be sworn by any of the persons making the examination, either of whom is hereby authorized to administer oaths for that purpose. They shall answer all questions propounded by

Treasurer or clerks may be sworn by examinee.

such examiners, or either of them, touching the condition of the treasury, and such examiners, whether appointed by the General Assembly, or either branch thereof, or by the Governor, are hereby empowered to compel the attendance of witnesses, send for persons and papers, and punish for contempt in the same manner as courts of record. If on counting the money and making such examination there shall be found the full sum required by the accounts of the Auditor of State and of the treasury as the accounts, books and legal vouchers of the Treasurer of State, together with all other property, bonds, securities, claims, assets and effects belonging to the State, and which should be in custody and possession of the Treasurer of State, the said inspector and Secretary of State shall certify the same over their official signature in writing, in triplicate, one of which certificates shall be recorded on the books of the treasury, and filed by the Treasurer, and one shall be recorded and filed by the Auditor of State, and one shall be furnished to the Governor in the executive office, and be recorded and filed therein; and the accountant so appointed or performing the duties herein required shall be paid by the Governor out of the contingent fund, for his services, such compensation not exceeding at the rate of three dollars per day, together with his necessary traveling expenses, if any there should be, as the Governor may deem just and reasonable; and every certificate as herein provided shall also contain a statement of the exact amount belonging to each particular fund, together with a schedule of all other property of the State as above described.

Committee of examiners authorized to send for persons and papers.

Compensation of committee.

SEC. 14. Whenever in the opinion of the Treasurer, Auditor and Governor of State, the notes of any of the banks organized under the banking laws of this State, cannot be safely received or held by the State, it shall be the duty of the Treasurer of State to give notice of such fact to the treasurers of the several counties, and the Treasurer of State and county treasurers shall discontinue the receiving of such notes, and shall at once take steps to secure the payment of all the notes of such banks that they may respectively have on hand. *Provided*, that if in such case any such bank continues to redeem its notes in specie, and shall deposit in the treasury of State good securities, sufficient in the opinion of the Treasurer, Auditor and Governor of State to indemnify the State against any and every loss in the taking of such notes, the said treasurers may continue to receive them.

Governor, Auditor and Treasurer may refuse bank bills thought by them to be unsafe.

No discrimination to be made in favor of any bank, in disbursing money.

SEC. 15. In making disbursements from the treasury of State, the Treasurer shall pay out bank notes in the order of time in which they shall be received, making no discrimination in favor of any bank, unless the security of the State funds should require a different order of payment.

Provision for paying interest on State debt—"running" banks.

SEC. 16. At some convenient period, prior to the falling due of the interest on the foreign debt of the State, payable at New York, the Treasurer shall, without making any discrimination, draw on the bank notes in the treasury an amount of specie sufficient to pay said interest, which he shall transmit to New York, by express or otherwise, as may be deemed most safe; but any bank or banks, on whose notes specie is thus demanded, may redeem such notes to the extent of such demand, by draft on New York, payable fifteen days preceding the day of payment of said interest, and without any premium of exchange, and giving ample security to the Treasurer for the prompt payment thereof.

I, R. J. Ryan, Clerk of the House of Representatives, hereby certify that the above and foregoing enrolled act passed the House of Representatives, the objections of His Excellency, the Governor, to the contrary notwithstanding. March 1, 1859.

R. J. RYAN,

Clerk of the House of Representatives.

I, James H. Vawter, Secretary of the Senate, hereby certify that the above and foregoing enrolled act passed the Senate, the objections of His Excellency, the Governor, to the contrary notwithstanding, March 1, 1859.

JAMES H. VAWTER,

Secretary of the Senate.

CHAPTER CXXXIX.

AN ACT for the relief of the Indiana University, and to increase and extend its benefits by providing for the sale of the lands granted by the United States, for the use of the said University, regulating the application of the proceeds of the sales thereof, and prescribing the duties of the officers therein mentioned, in relation thereto.

[APPROVED MARCH 2, 1859.]

University trustees to cause their lands to be appraised.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana, That the board of trustees of the Indiana University shall cause to be appraised the land*

granted by the United States to the State of Indiana, for the use of the said university.

SEC. 2. It shall be the duty of the said trustees when the said appraisement shall have been made, to record the same upon their books, and file a copy of the same in the office of the auditor of State, to be by said auditor recorded in his office, and also, to file copies of such appraisements of the lands in the respective counties, in the office of the auditor of the county where the lands are situate, to be by said county auditor recorded.

To file copy of appraisement in office of Auditor of State, and auditors of counties.

SEC. 3. The auditor of each of the said counties shall, upon said appraisements being filed as aforesaid, and when required so to do by the said board of trustees, offer for sale so much of the said lands as may be within their respective counties, at public auction in the manner hereinafter mentioned.

County auditors to offer lands for sale.

SEC. 4. Notice of the time, place and conditions of such sale, shall be given by publication, for four weeks successively in a newspaper published in such county, if any there be; if not, in a newspaper in the State published nearest thereto, and also by posting up written or printed notices thereof, in three of the most public places in the township, in which the lands are situated, and a like notice at the court house door at the county seat.

Notice of sale to be published.

SEC. 5. The place of sale for said lands shall be at the court house in each county of this State, in which the said lands may be situated, and it shall be the duty of the county auditor to attend at the court house of his county at the time mentioned in the notice of the sale of said lands, and offer for sale at public auction, in legal subdivisions, and as near as practicable in half quarter sections, all the lands lying within his county, and for that purpose shall continue the sale from day to day, until all of the said lands shall have been offered for sale.

To be sold at court house door.

SEC. 6. The said lands shall be offered for sale at the time and place mentioned in such publication, and struck off to the highest bidder by said county auditor and county treasurer, for a price not less than the appraised value thereof; one-fourth of the purchase money to be paid in hand, and the remaining three-fourths at the expiration of ten years from the date of such sale with interest annually in advance, at the rate of seven per cent. per annum, upon the residue or deferred payment.

How subdivided.

Terms of sale.

SEC. 7. When any of said lands offered at public sale as aforesaid, shall remain unsold, they shall be sub-

Unsold lands subject to private sale.

ject to private entry with the county auditor and county treasurer of each county, upon the same terms and conditions as lands sold at public auction, for a sum not less than the appraised value thereof, by any person applying to enter the same.

County auditor to give certificate of purchase to person buying land.

SEC. 8. When any sale shall be effected, either at public or private sale as aforesaid, the county auditor shall give to the purchaser thereof a certificate, signed by him officially bearing date on the day of sale, stating therein the name of the purchaser, the tract or tracts of land purchased by him, the number of acres contained in said tract or tracts, the price per acre, and the whole sum for which the same was sold, the amount of principal paid, and the amount of interest paid in advance.

Certificate to be registered by auditor.

SEC. 9. Said certificate shall be registered by the county auditor in a book provided for that purpose, by entering in said book a correct copy thereof.

Certificate evidence of title.

SEC. 10. Said certificate of entry shall be evidence of title to the land therein mentioned, in the persons in whose names they shall issue, or their assigns, and shall be assignable, provided such assignments be acknowledged before the auditor of the county, wherein the land is situated, (who is hereby authorized to take such acknowledgments,) and recorded by said auditor in a book to be kept by him for that purpose; for which service the said auditor shall be entitled to receive a fee of fifty cents, to be paid by the assignor of such certificate.

Auditor's fee.

On failure to meet payments, land to revert to State, and be re-sold by county auditor.

SEC. 11. On failure of any purchaser to pay any installment of interest on said deferred payment of purchase money, when the same becomes due, the contract shall become forfeited, and the land shall immediately revert to the State for the use of said university, and the county auditor shall forthwith proceed to sell the same in the manner and on the terms hereinbefore specified for said public sales.

Overplus to be paid to first purchaser.

SEC. 12. If, on such subsequent sale, such lands shall produce more than is sufficient to pay the sum owing therefor, with interest and costs, and five per cent. damages, upon the amount due on such lands, the surplus shall, when collected, be paid over to the purchaser so forfeiting, or his legal representative.

First purchaser may prevent future sale.

SEC. 13. At any time before such subsequent sale, payment of the sum due with interest for the delay, and all costs, together with two per cent. damages upon the amount due on such lands, shall prevent such sale and revive the original contract.

SEC. 14. The former owner of any lands sold as delinquent, his heirs, executors or administrators, may at any time, within one year after such re-sale, redeem the same by paying to the purchaser, his heirs or assigns, or to the county treasurer, for him or them, the amount of purchase money paid by such purchaser, together with all subsequent payments, either of principal or interest, which such purchaser, or those claiming under him, may have made thereon, with interest at the rate of ten per cent. per annum.

Lands sold as delinquent how redeemed.

SEC. 15. The board of trustees may require security from the purchaser at any of said sales, sufficient to prevent any waste being committed upon the lands by the removal of timber therefrom, or otherwise.

Trustees to require security against waste.

SEC. 16. In case of any forfeiture as aforesaid, the purchaser so forfeiting shall be liable, and may be sued for unnecessary injury or waste done to such land, and damages to double the amount of such injury or waste recovered therefor, such suit to be begun and prosecuted by the auditor of the county where the land lies, in the name of the State of Indiana, for the use of the said University.

Forfeiting purchaser liable for unnecessary injury.

SEC. 17. On full payment being made for any such lands, the county auditor shall issue to the purchaser, or his assignee, a final certificate therefor, which, upon presentation to the Auditor of State, shall entitle the owner thereof to a patent for the land described therein, to be issued by the Governor, and recorded in the office of the Secretary of State.

On full payment purchaser entitled to patent.

SEC. 18. The county auditor shall make, on the first Monday of each month, a report of his sales of said lands to the secretary of the board of trustees, and to the Auditor of State, showing the date of sale, the description of the lands sold from time to time, the number of acres, the price per acre, the total amount each tract sold for, the amount of principal paid, and the amount of interest paid, and of all forfeitures, re-sales and redemptions thereof.

County auditor to report sales of lands, etc.

SEC. 19. The county treasurers shall make a report on the first Monday of each month to the treasurer of the board of trustees of the University, and to the Treasurer of State, of all moneys received by him, whether principal or interest, on account of such lands, and the said board of trustees shall require the books of their secretary and treasurer to be so kept as to exhibit the true condition of the accounts of all such purchases and sales of the said lands.

County treas. to report receipts of money, etc.

Co. treas. to pay
over moneys to
Treas. of State.

SEC. 20. The county treasurers shall, on the first Monday of each month, pay over to the Treasurer of State all sums received on account of the principal of the purchase money of said lands, and shall pay to the treasurer of the board of trustees of the University, all sums received on account of the interest upon the purchase money of the said lands.

Compensation of
county auditors
and treasurers.

SEC. 21. The several county auditors and treasurers shall receive for their services the same compensation which may from time to time be allowed by law for similar services in relation to the sale of common school lands, which shall be in full for all their services required in this act.

Auditor of State
may loan out
principal, pay in-
terest, &c.

SEC. 22. The Auditor of State shall loan out the said principal of the moneys received from the several county treasurers on account of said sales, in the same manner, and requiring the same security, as other portions of the University fund is now, or may hereafter be required by law to be loaned out, and shall pay over to the treasurer of the board of trustees, the interest derived from said principal as a part of the income of the University. The said Auditor of State shall, in his annual report to the Legislature, report the names of the borrowers of the whole of the University fund, the amount borrowed by each, and the total amount on loan at the date thereof, and the amount of the suspended debt, if any, and in whose name forfeited.

First proceeds to
be paid to trust-
ees and applied
to debt for re-
building Univer-
sity, &c.

SEC. 23. Of the first proceeds of said sum, the said board of trustees shall be entitled to receive an amount equal to the amount of interest belonging to the University, and loaned out as principal by the Auditor of State, as shown by the report of that officer to the General Assembly at the session of 1851-2, which shall be paid to the treasurer of the board of trustees of the University, and be applied, under the order of the board of trustees, to the discharge of the debts growing out of the re-building of the University, and to the purchase of a suitable library, philosophical apparatus therefor, or proper furniture, in place of those destroyed by the burning of the University.

Board of trustees
in annual report
to report sales of
land, &c.

SEC. 24. The board of trustees shall, in their annual report, include a full statement of the amount of the sales of such lands, and the application of the funds received therefor, as reported to them from time to time.

One member to
attend sales, &c.

SEC. 25. One member of the board of trustees, to be designated by the board, shall attend to the public sales of the said lands to prevent combinations injurious to

the interests of the University; and he shall have power to withdraw the said lands, or any portion thereof, from sale, when, in his judgment, the interests of the University would be thereby promoted, and shall have the power and right to designate and determine in what sub-divisions any of the said lands may be sold at the time of said public sale, for the best interests of the said University.

SEC. 26. No member of the board of trustees of the University shall, either directly, or indirectly, become the purchaser of any such lands at any sale made by the county auditor, or by private entry with the auditor after any forfeiture of purchase; and any sale made to any member of the said board contrary to the provisions of this section, shall be absolutely void, and the purchase money and interest which may have been paid thereon, shall be forfeited to the University fund.

Member of board of trustees prohibited from buying lands, &c.

SEC. 27. The commissioners of the University lands in Gibson and Monroe counties, and the several county auditors and treasurers of the counties in which any of the University lands are situated, shall furnish such information in relation to the lands and other property of the University, as may from time to time be required of them by the said board of trustees, and shall report annually the amount of unpaid purchase money due on the lands sold for the use of the said University in each of their counties.

County auditors and treasurers to furnish information, &c.

SEC. 28. It is hereby declared that on account of the pecuniary embarrassment of the said University, occasioned by its destruction by fire, and the rebuilding thereof, an emergency exists for the immediate taking effect of this act, and it shall therefore take effect and be in force from and after its passage.

Emergency.

CHAPTER CXL.

AN ACT providing for voluntary assignments of personal and real property in trust for the benefit of creditors, and regulating the mode of administering the same.

[APPROVED MARCH 5, 1859.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana, That any debtor or debtors in em-*

Assignments may be made.

barrassed or failing circumstances, may make a general assignment of all his or their property, in trust for the benefit of all his or their *bona fide* creditors; and all assignments hereafter made, by such person or persons, for such purpose, except as provided for in this act, shall be deemed fraudulent and void.

Assignments
made by inden-
ture

What to be con-
tained in inden-
ture.

Assignee to have
no interest in prop-
erty assigned to
him.

Copy of assign-
ments to be filed
in clerk's office
by trustee.

Trustee shall
take oath and
give bond. Du-
ties of trustee.

SEC. 2. All assignments under this act shall be by indenture duly signed and acknowledged before some person duly authorized to take the acknowledgment of deeds, and shall within ten days after the execution thereof be filed with the recorder of the county in which the assignor resides, whose duty it shall be to record the same as deeds are recorded. The indenture of assignment shall contain a full description of all real estate thus assigned, and be accompanied by a schedule containing a particular enumeration and description of all the personal property assigned; and the assignor shall make oath before some person authorized to administer oaths, that said indenture and schedule contain a statement of all the property, rights and credits belonging to him, or of which he has any knowledge, and that he has not directly or indirectly transferred or reserved any sum of money or article of property for his own use or the benefit of any other person, and has not acknowledged a debt or confessed a judgment to any person or persons for a sum greater than was justly owing to such person or persons, or with the intention of delaying or defrauding his creditors. No assignment under this act shall convey to the assignee any interest in the property so assigned until such assignment is recorded as provided for in this section.

SEC. 3. Within fifteen days after the execution of any such assignment, the trustee shall file a copy of the assignment and schedule in the office of the clerk of the common pleas court of the county in which the debtor resides, and shall, before entering upon the execution of the trust, make oath that he will faithfully execute the same, that the property assigned has been actually delivered into his possession for the uses declared in the assignment, and the probable value of the property so assigned. And such trustee shall at the same time file with the clerk a written undertaking to the State of Indiana, with at least one sufficient surety, to be approved by the clerk, in a sum double the amount of the value of the property assigned, conditioned for the faithful discharge of the duties of his

trust, which bond shall be for the use of any person or persons injured by the action of such trustee in the premises.

SEC. 4. The clerk of the common pleas court shall minute the filing of said copy of indenture and schedule and the undertaking in the proper book provided therefor.

Clerk shall minute filing of indenture, &c.

SEC. 5. If the trustee fails to comply with the provisions of the foregoing sections, the common pleas judge, or the clerk thereof, may, at the instance of the assignor or a creditor, by petition, remove said trustee and appoint some suitable person in his stead, who shall forthwith comply with the requirements above specified, and who shall immediately take possession and control of the property assigned, and enter upon the execution of the trust, as hereinafter provided.

Trustees failing to do as required, may be removed, etc.

SEC. 6. Immediately after complying with the requirements aforementioned, the trustee shall give notice of his appointment by publication, three weeks successively, in some newspaper printed and published in the county, if any there be, and if not, by written notices put up in at least five of the most public places in the county, and by publication of the same in some newspaper printed and published nearest thereto, for the time and in the manner mentioned in reference to publication in the county where the assignor resides. And said trustee shall, within thirty days after entering upon the duties of his trust, make and file under oath a full and complete inventory of all the property, real and personal, the rights, credits, interests, profits and collaterals, which shall have come to his hands, or of which he may have obtained knowledge as belonging to the assignor. And it shall further be his duty, whenever any property not mentioned in said inventory comes to his hands, or when he obtains satisfactory information of the existence of such property, to file an additional inventory of the same, under like regulations governing the one herein named.

Trustee shall give notice of his appointment.

Shall make and file inventories, &c.

SEC. 7. The trustee, after filing the inventory mentioned in the next preceding section, shall within twenty days thereafter cause the property mentioned in said inventory to be appraised by two reputable householders of the neighborhood, who, before proceeding to the discharge of such duty, shall take and subscribe an oath that they will honestly appraise the property mentioned in the inventory, filed by the trustee, which oath shall be filed together with the appraisement by them made with the clerk of the court of common pleas.

To cause appraisement. Appraisers to be sworn.

Property appraised.

SEC. 8. The appraisers shall, in the presence of such trustee, appraise each article mentioned in the inventory at its true value, and set down opposite each article respectively, the value fixed by them, in dollars and cents, in figures.

Hence holding assignor to have set off certain articles.

SEC. 9. If the assignor is a resident householder of this State, said appraisers shall set off to said assignor such articles of property, or so much of the real estate mentioned in the inventory, as he may select, so that the same shall not exceed three hundred dollars, and the appraisers shall in their appraisement specify what articles of property and the value thereof, or what part of the real estate and its value, they have so set apart to the assignor.

Trustee to collect claims of assignor, and sell at auction goods of assignor, and make return of sale to clerk of C. P. Court.

SEC. 10. The trustee shall, as soon as possible after said appraisement is filed, proceed to collect the rights and credits of the assignor, and shall, after giving thirty days notice of the time and place, as provided for in the sixth section of this act, proceed to sell at public auction the property appraised, (except such as has been set off to the assignor,) to the highest bidder for cash or upon credit, the trustee taking notes with security to be approved by him, and payable not more than nine months from date, with interest. A full return under oath, shall be made of the sale by the trustee to the clerk of the common pleas court, who shall file the same with the other papers in the case.

Trustee shall report within six months to C. P. Court, amount of moneys, &c., on hand.

SEC. 11. The trustee shall, within six months after entering upon the duties of his trust, make report to the judge of the court of common pleas, under oath, setting forth the amount of money in his hands, both from the sale of property, and from collections, and the amount still uncollected. And such trustee shall also, in such report, give a list of all claims of creditors which have been presented to him against the assignor, noting such as he has concluded should be allowed, and such as he has determined not to allow.

Clerk to enter report on appearance docket.

SEC. 12. It shall be the duty of the clerk of such court to spread such report and list upon the appearance docket of the court, distinguishing between such claims as the trustee has determined to allow, and such as he has refused to allow, and in all cases where the trustee has refused to allow any claim, and where any creditor objects to the allowance of the claim of any other creditor or creditors, the judge of such court may order such case, or cases, to stand for trial at the next term of

Cases refused to be paid by assignee, how settled.

said court thereafter. And such trial shall be governed in all respects, by the rules regulating the trials of similar actions in the circuit court; and if, after having the proofs and allegations on the trial of any such claim, the court be satisfied that it is valid and just, the court shall order the same to be allowed and paid as other similar claims are paid, and shall make such order with respect to costs as the court shall deem just.

SEC. 13. Any part of the property assigned on which there are liens or incumbrances, may be sold by the trustee, subject to such liens or incumbrances; but in case the trustee should be satisfied that the general fund would be materially increased by the payment of such liens or incumbrances, he shall make application by petition, to the judge of the common pleas court, for leave so to do, and abide its order in that behalf. Before the holder of any lien or incumbrance shall be entitled to receive any portion of his debt out of the general fund, he shall proceed to enforce the payment of his debt by sale, or otherwise, of the property on which such lien or incumbrance exists; and for the residue of such claim, such holder of such lien or incumbrance shall share *pro rata* with the other creditors, if entitled so to do by the laws of this State.

Property to be sold subject to liens.

Trustee may pay off liens in certain cases.

Payment of liens how enforced.

SEC. 14. When the court shall have confirmed the report made as provided for in the 11th section of this act, and if no contested claims are standing on the docket, as provided for in the twelfth section of this act, such court shall order such trustee to pay all moneys then in his hands to the clerk of such court, who shall, after deducting therefrom the costs incident to the execution of such trust, including such allowance to the trustee as the court shall deem just, distribute the same among the creditors according to the provisions of this act, taking their respective receipts therefor.

Money to be paid by trustee to clerk of court, who shall distribute same to creditors.

SEC. 15. If any creditor or the trustee, by affidavit, or otherwise, shall satisfy the court that the assignor has fraudulently withheld, or has fraudulently transferred any part of his property, such court, or the judge thereof, in vacation, may order a warrant to be issued for the arrest of the assignor, or the person or persons to whom such fraudulent transfer is believed to have been made, or both of them, and all persons alleged to be concerned in such fraud, and have him or them brought before such court or judge, on oath to answer all questions put to him, or them, pertinent to the alleged fraudulent transaction; and such court or judge

Fraudulent concealment of property, &c.

Proceedings incident thereto.

shall have power to stay further fraudulent transfers, and to subject such property as has been fraudulently withheld or transferred, to the operation of the general trust.

Claims to be sworn to.

SEC. 16. Persons filing claims with the trustee shall make oath that they are just and lawful, and no part of the same for usurious interest, or if so, what part, and said part shall be deducted from the claims before they are allowed; and the trustee is hereby authorized to administer oaths to creditors in reference to the validity and justice of their claims.

Trustee may compromise claims.

SEC. 17. A trustee may compound or compromise any debt or claim belonging to the assignor, which cannot be otherwise recovered without endangering the recovery of such claim or debt.

Trustee to report to court.

SEC. 18. It shall be the duty of the trustee at the expiration of one year after entering upon the duties of his trust, or at the next term of such court thereafter, to make out a final report to such court; and upon the hearing and determination thereof, and if the judge is satisfied with, and approves the same, he shall order the trustee to be discharged from his trust; *Provided*, such judge may, for good cause shown, grant further time to said trustee to file his final account.

Court may remove trustee and fill vacancies.

SEC. 19. The judge of the common pleas court may, in term time, or in vacation, upon the petition of any creditor or the assignor, remove a trustee, under this act for good cause shown, and appoint his successor, and shall, whenever a vacancy occurs by death, resignation or removal of such trustee from this State, have power to fill such vacancy, and shall order any trustee thus removed, to surrender all property in his hands belonging to such trust to such successor, and that he forthwith pay to the clerk of such court all moneys in his hands, and that on or before the next term he shall make and file a full and final report showing the condition of the trust, and his management thereof while under his control; and if the court shall be satisfied with such report, and that such trustee has fully complied with the requirements of this act, and paid all moneys in his hand to the clerk of such court, then such court may discharge such trustee.

Final report.

Appeals.

SEC. 20. Nothing in this act contained shall prevent any party or parties, who shall deem him [self] or themselves aggrieved by any order or decree of the court under this act, from having an appeal as in other civil actions.

SEC. 21. For whatever services the clerk of the court of common pleas is required to perform under this act, he shall be allowed the same fees as are allowed him by law for similar services in other civil proceedings; and the appraisers under this act, shall be entitled to one dollar per day each, for their services; and the judge of such court shall allow the trustee such remuneration for his services in executing his trust, out of the general fund, as such judge may deem just and proper. Clerk's fees.

SEC. 22. Inasmuch as there is now no law in this State prescribing the mode of voluntary assignments, as provided for in this act, it is therefore hereby declared that an emergency exists for the immediate taking effect of this act, and that the same shall be in force from and after its passage and publication in the Indiana State Sentinel and Indiana Journal. Emergency.

NOTE—Published in Sentinel March 18, and Journal March 19, 1859.

CHAPTER CXLI.

AN ACT declaratory of the meaning of the first section of an act entitled "an act prescribing who may make a will, the effect thereof, what may be devised, regulating the revocation, admission to probate, and contest thereof," approved May 31, 1852, and to legalize all wills made by married women, in pursuance of said act, since the taking effect thereof.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the first section of said act, which first section reads as follows, to-wit: "Section 1. All persons except infants and persons of unsound mind, may devise by last will and testament any interest descendable to their heirs, which they may have in any lands, tenements, and hereditaments, or in any personal property, to any person or corporation, capable of holding the same," was intended to empower, and does empower married women, as well as all other persons, except infants, and persons of unsound minds, to devise and bequeath by last will and testament their real and personal estate, to any person or corporation capable of holding the same, and such is hereby declared to be the true intent and meaning of said first section, and it shall be the duty of all the courts to construe said section accordingly. Meaning of Section 1st defined.

Married women
may make wills.

SEC. 2. All wills made by married women before the passage of this act, and after the taking effect of the aforesaid act, approved May 31, 1852, and which conform to the requirements of the laws of this State in relation to last wills and testaments, are hereby legalized, and shall have the same force and effect as if they had been executed after the taking effect of this act.

Wills made by
married women
declared legal.

SEC. 3. Inasmuch as one of the judges of the supreme court of this State, in deciding a late case, expressed serious doubts whether the words "all persons," in the first section of said act, approved May 31, 1852, could or ought to be construed as embracing or including married women; *Therefore*, an emergency is hereby declared to exist, rendering it proper that this act should take effect immediately upon its passage, and it is hereby enacted that this act shall take effect and be in force from and after its passage.

Emergency.

EXECUTIVE DEPARTMENT, INDIANA.

The foregoing was received March 3, 1859.

SAMUEL ORBOURNE, *Private Secretary*.

CHAPTER CXLII.

AN ACT supplemental to an act entitled "an act prescribing who may make a will, the effect thereof, what may be devised, regulating the revocation, admission to probate and contest thereof," approved May 31, 1852.

[APPROVED FEBRUARY 1, 1859.]

Foreign wills ad-
mitted to probate
in this State, may
be contested by
any interested
party.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That in all cases of foreign wills and testaments, heretofore admitted, or hereafter to be admitted to probate, or which have been or may be offered for record and filing in any county of this State, any person interested in the estate of the testator, may contest such will or testament within the time, in the manner, and for any or all the causes prescribed by the laws of Indiana, in cases of the contest of domestic wills; *Provided*, That nothing in this section shall be so construed as to allow the contest of any foreign will which may have been probated, or filed and recorded, in any county of this State, more than three years before the commencement of such contest.

Proviso.

Emergency.

SEC. 2. This act is hereby declared to be one of emergency, and to be in force from and after its passage.

CHAPTER CXLIII.

AN ACT relinquishing to William English of Dearborn county, the interest acquired by the State of Indiana, by escheat in and to in-lot No. thirty-three, (33) in Rossville in said county.

[APPROVED MARCH 5, 1859.]

WHEREAS, It is represented to this General Assembly Preamble. that William English, a native of England, departed this life on the twentieth day of July in the year 1854, intestate, seized in fee of in-lot No. thirty-three (33) in Rossville, Dearborn county, Indiana, leaving neither wife nor child, and having no relatives in the United States; AND WHEREAS, It is further represented that William English, a nephew of said deceased, has become a resident of said county in good faith, with his family, and has filed a declaration of his intention to become a citizen of the United States, and that the said William English, the nephew aforesaid, and his family, are the only relatives of said deceased in the United States.

SECTION 1. *Therefore be it enacted by the General Assembly of the State of Indiana,* That all of the estate and interest of the State of Indiana, in and to the said in-lot No. thirty-three, (33) in Rossville, in the county of Dearborn, acquired by escheat, be, and the same is hereby granted to and vested in the said William English of said county, and his heirs and assigns forever, and he is hereby as fully and absolutely invested with the title thereof, as if he had been a *bona fide* resident of the United States at the time of the death of the said William English, deceased. Certain lands relinquished to Wm. English.

CHAPTER CXLIV.

AN ACT to amend the 21st section of an act entitled "an act providing for the organization of county boards, and prescribing some of their powers and duties," approved June 17th, 1852, so as to allow the commissioners to make a levy of not less than one-tenth of one per cent.

[APPROVED FEBRUARY 2, 1859.]

Sec. 21 amended; SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the twenty-first section of an act entitled "an act providing for the organization of county boards, and prescribing some of their powers and duties," approved June 17, 1852, which reads as follows:

Quoted. "Sec. 21. Whenever the bonds are sold or negotiated as herein provided, the county commissioners shall make a levy of not less than one fourth of one per cent., on the taxable property of such county, and cause the same to be placed upon the tax duplicate, properly designated in a separate column, for the current and each succeeding year; and such tax when collected, shall be invested in the bonds aforesaid, or other State and county securities, and thereupon shall constitute a sinking fund for the extinction and ultimate liquidation of the debt contracted by the issue of such bonds," be amended to read as follows:

Commissioners may levy taxes in certain cases. Whenever the bonds are sold or negotiated as herein provided, the county commissioners shall make a levy of not less than one-tenth of one per cent. on the taxable property of such county, and cause the same to be placed upon the tax duplicate, properly designated in a separate column for the current and succeeding year; and such tax, when collected, shall be invested in the bonds aforesaid, or other State and county securities, and thereupon shall constitute a sinking fund for the extinction and ultimate liquidation of the debt created by the issue of such bonds.

Emergency. SEC. 2. It is hereby declared that an emergency exists for the immediate taking effect of this act, and that it shall be in force from and after its passage.

JOINT RESOLUTIONS.

JOINT RESOLUTION NO 1.

WHEREAS, There yet remains some of those valliant men who served in the war for 1812, and also indigent widows of soldiers of said war, who have never received a pension from the United States government, therefore,

Be it resolved by the General Assembly of the State of Indiana, That our senators in congress be instructed, and our representatives requested to use their best efforts to obtain for such soldiers and widows, a pension during their natural lives, and that the Governor be requested to forward a certified copy of this resolution, to each of our senators and representatives in congress.

JOINT RESOLUTION NO. IV.

A JOINT RESOLUTION directing the Treasurer of State to appropriate all public money in his hands as therein provided, and directing the Governor, Treasurer and Auditor to borrow of the Commissioners of the Sinking Fund, or elsewhere, giving the preference to said fund.

Be it resolved by the General Assembly of the State of Indiana, That the Treasurer of State be directed to appropriate all the public money in his hands, and beyond the sum which, by his estimates, will be required to meet the current expenses of the State up to the 25th of Janury next, towards the payment of the interest on the foreign debt of the State, due on the 1st of January, 1859; and also, that the Governor, Treasurer and Auditor of State be directed to borrow of the Board of Sinking Fund Commissioners, or elsewhere, giving preference to said fund, whatever sum may be required

for the payment of said interest, and to give therefor the necessary bonds or obligations of the State, bearing seven per cent. interest, if necessary, payable either wholly or in part at the pleasure of the State, on or before the first day of April, 1861, and that the Board of the State Debt Sinking Fund be directed, if necessary in effecting such loan, to pledge for the payment thereof any bonds or certificates of the State, which are held by said Board of the State Debt Sinking Fund, and are now in the hands of said Auditor.

JOINT RESOLUTION NO. VIII.

WHEREAS, The Indiana State Board of Agriculture have memorialized the General Assembly in reference to a geological survey, and have stated that the vast agricultural, mineral resources of the State are comparatively unknown, would be rapidly developed was such survey made and published, therefore,

Be it resolved, the Senate concurring, That a joint committee of sixteen be appointed, corresponding with the districts arranged by said board, of which nine shall be of the House and seven of the Senate, to whom the whole subject shall be referred.

JOINT RESOLUTION NO. XIII.

A JOINT RESOLUTION relative to the construction of a canal at the Falls of the Ohio River.

WHEREAS, The citizens of the State of Indiana, being deeply interested in the cheap, safe and speedy transportation of their commerce on the Ohio River, they claim the right of expressing to Congress their opinion on the subject of the proposed mode of improvement of the navigation at the falls of said river; Therefore, to give force to these opinions collectively, which the citizens individually entertain, the members of the General Assembly, representing the several counties of the State, adopt the following resolutions:

Resolved, That the Ohio river, being acknowledged as the great national highway under the care and supervision of the General Government, a free and ample

mode of conveyance should be provided and at all times preserved for passage of boats and other vessels conveying the commerce of the river around the natural obstructions, known as the rapids or Falls of the Ohio.

Resolved, That the rapid increase of commerce has rendered two canals necessary for the accommodation of vessels ascending and descending the Ohio river; and this necessity will be greatly increased by the completion of the system of railroads now in progress of connection with the river above and below the falls.

Resolved, That the repair and enlargement of the present canal would at all times, excepting during the period of very high water, present an obstruction to the passage of vessels, and cause the portage of freight a distance of two miles, subject to the penalties and regulations incidental to a corporation, thus suspending navigation through the canal for years, creating daily losses highly injurious to the commercial and manufacturing interests, and fatal to the interests of those concerned in the navigation of the river.

Resolved, That surveys and estimates made heretofore by competent engineers, establishing the fact that the construction of a new canal around the Falls of the Ohio, adapted to the present and future wants of commerce, would cost very little more than the repairs and enlargement of the present work, which, if repaired, would present but one passage around the Falls, and that, from the unfavorable location, never could be as useful for passing the largest class of boats as a new work, constructed with the advantages of the present experience in navigation.

Resolved, That the Senators and members of Congress from this State be, and they are hereby earnestly requested to use their best exertions for the passage of a law authorizing and aiding the construction of a new canal, on the Indiana side of the river, and to prevent the interruption of the commerce of the river, through the Louisville and Portland canal, until some other mode is provided for the passage of boats around the Falls.

Resolved, That the Governor be, and he is hereby requested to furnish a copy of these resolutions to each of our Senators and Representatives in Congress.

JOINT RESOLUTION NO. XIV.

WHEREAS, The government of the United States has occupied certain apartments in the capitol of this State, for the holding of the federal courts, from the year 1836 to the year 1858, inclusive, therefore,

Be it resolved by the General Assembly of the State of Indiana, That our representatives in congress be requested and our senators instructed to present to the congress of the United States, in proper form, a demand on the part of this State for rent for the use of said apartments, with fuel and light during such time, at the rate of five hundred dollars per year; *Provided, however,* that if the amount claimed be allowed, or any other amount, the same shall form a part and parcel of the school funds of the State of Indiana, and shall be loaned in the same manner, and under the same regulations that other school funds are loaned; and that the governor forward a copy of this resolution, certified under the seal of the State, to each of our representatives and senators in congress.

JOINT RESOLUTION NO. XXIV.

A JOINT RESOLUTION in relation to the settlement, adjustment and collection of the dues to the State, from the various officers and persons indebted thereto.

Be it resolved by the General Assembly of the State of Indiana, That the Auditor be, and he is hereby directed to examine and make out a detailed statement of the unsettled accounts of all persons heretofore acting as officers or agents of the State, describing the nature of the claims against each person, and deliver the same over to Jehu T. Elliott, William T. Otto and Norman Eddy, who are hereby appointed commissioners upon the part of the State, with full power to investigate the same, and ascertain the amount due from each person.

The Auditor and Treasurer of State are also required to deliver to said commissioners all securities and evidences of debt remaining due and unpaid, held by them as the property of the State, or by them as collateral security for the payment of the debts and liability above mentioned.

The commissioners shall inquire into the ability of such persons to pay said debts, and their legal liability to do so, and in each case shall have full power to adjust and settle the claim, by suit, or otherwise, and to accept property in satisfaction thereof, or to settle such demands in any other manner, upon such terms, as in their judgment may be most beneficial to the interests of the State.

But no settlement is to be made for a less amount than the face of the debt, until the same is approved in writing by the Governor.

It is hereby made the duty of the Attorney General to advise and assist the commissioners in the discharge of this trust, and they are hereby required to report their proceedings under this resolution, to the Governor, whose duty it shall be to lay the same before the next General Assembly.

The commissioners, before entering upon their duties, will subscribe an oath to faithfully and honestly discharge this trust to the best of their ability.

C E R T I F I C A T E .

STATE OF INDIANA, }
OFFICE OF SECRETARY OF STATE. } *Sec.*

I, CYRUS L. DUNHAM, Secretary of the State of Indiana, do hereby certify that I have compared the foregoing printed acts with the enrolled acts now on file in my office, and find them to be correctly printed; the words and parts of words inserted thus [] by me, were omitted in the enrollment.

IN TESTIMONY WHEREOF, I have hereunto set my hand
and affixed the seal of the State, at the city of Indianapolis, this 3d day of June, in the year of our Lord, 1859.
CYRUS L. DUNHAM,
Secretary of State.

{ SEAL. }

APPENDIX.

ABSTRACTS FROM THE AUDITOR'S REPORT FOR THE YEAR 1857.

A General Statement of the Receipts and Expenditures during the fiscal year commencing November 1, 1856, and ending October 31, 1857.

RECEIPTS.

There was remaining in the Treasury Nov. 1, 1856.....	\$624,735 08
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During the year ending Oct.
31st, 1857, the following
amounts were received, viz:

REVENUE.

On account of revenue of 1856	\$558,911 06
On account of delinquent revenue of 1855.....	52,110 27
On account of revenue of 1855	10,061 54
On account of delinquent revenue of 1854.....	1,068 39
On account of delinquent revenue of 1856.....	37,280 07
	<hr/> \$654,431 33

TOWNSHIP LIBRARY FUND.

On account of library tax of '55	\$2,672 47
On account of delinquent library tax of 1855	8,561 11
On account of delinquent library tax of 1853.....	48 27
	<hr/> \$11,276 85

ABSTRACTS FROM THE

STATE DEBT SINKING FUND.

On account of taxes of 1856...	\$49,211 64	
On account of taxes of 1855...	1,578 56	
On account of delinquent tax of 1856.....	3,115 92	
On account of delinquent tax of 1855.....	4,698 32	
On account of delinquent tax of 1854.....	85 42	
On account of Sinking Fund...	8,652 92	
	<hr/>	\$67,842 78

COMMON SCHOOL FUND.

On account of tax of 1856.....	\$295,578 99	
On account of tax of 1855.....	8,826 92	
On account of tax of 1854.....	7,428 22	
On account of delinquent tax of 1856.....	21,853 43	
On account of delinquent tax of 1855.....	28,612 96	
On account of delinquent tax of 1854.....	487 12	
On account of delinquent tax of 1853.....	154 19	
On account of interest collected by county treasurers.....	53,729 01	
	<hr/>	\$416,120 84

SWAMP LANDS.

On account of sales of swamp lands	\$362,101 57
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BENEVOLENT INSTITUTIONS.

On account of Asylum for the Blind.....	\$3,627 58	
On account of Hospital for the Insane	4,409 67	
On account of Deaf and Dumb Asylum	2,304 77	
	<hr/>	\$10,342 02

CONGRESSIONAL TOWNSHIP FUND.

On account of principal.....	\$403 80	
On account of interest.....	19 75	
	<hr/>	\$423 05

UNIVERSITY FUND.

On account of principal.....	\$3,223 00	
On account of interest.....	5,347 43	
On account of costs of adver- tising.....	4 00	
	<hr/>	\$8,574 43

SALINE FUND.

On account of principal.....	\$4,510 36	
On account of interest.....	567 93	
On account of sales of lands...	1,487 47	
	<hr/>	\$6,565 76

BANK TAX FUND.

On account of principal.....	\$3,527 45	
On account of interest.....	189 84	
	<hr/>	\$3,666 79

SURPLUS REVENUE FUND.

On account of interest.....	\$77 00
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STATE PRISON.

On account of current receipts	\$30,827 62	
On account of old State Prison	1,000 00	
	<hr/>	\$31,827 62

MISCELLANEOUS.

On account of Gov.'s house....	\$11 00	
On account of Military Fund..	2,145 00	
On account of Colonization....	25 00	
On account of Gov.'s Circle....	665 00	
On account of Michigan Road lands	63 50	
On account of sales of Revised Statutes	278 50	
On account of estates without heirs	260 35	
On account of general fund....	1,010 89	
	<hr/>	\$4,458 74

WABASH AND ERIE CANAL..

On account of tolls and water rents	\$67,767 95
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On account of lands east and west of Tippecanoe.....	19,814 76
On account of lands in Vincennes district.....	108,111 42
On account of interest on deposits.....	1,672 23
Miscellaneous	100 00
	<hr/> \$197,466 36

Total receipts from November 1, 1856, to October 31, 1857, including balance on hand November 1, 1856.....	\$2,399,410 17
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DISBURSEMENTS.

The disbursements during the fiscal year ending October 31st, 1857, were as follows, viz :

ORDINARY EXPENDITURES.

On account of Legislative Expenses.....	\$51,970 54
On account of Supreme and Circuit Judges.....	19,260 60
On account of Executive officers.....	5,413 20
On account of Public Printing and Binding.....	18,408 51
On account of fuel and stationery	7,615 47
On account of State Prison.....	50,991 24
On account of Gov.'s house....	2,045 51
On account of State House.....	2,915 31
On account of prosecuting attorneys.....	3,770 07
On account of State Library...	1,251 03
On account of militia.....	327 41
On account of Gov.'s Circle....	665 00
On account of specific appropriations.....	19,210 66
On account of contingent fund	2,383 17
	<hr/> \$186,227 11

REVENUE.

On account of revenue of 1856 refunded	\$2,898 88	
On account of delinquent revenue of 1856, and previous years, refunded.....	2,262 59	
	<hr/>	\$5,160 97

TOWNSHIP LIBRARY FUND.

On account of expenses of libraries.....	\$23,750 08	
On account of tax refunded....	100 65	
	<hr/>	\$23,850 73

STATE DEBT SINKING FUND.

On account of tax of 1855 refunded.....		\$70 72
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COMMON SCHOOL FUND.

On account of distribution of fund.....	\$378,056 50	
On account of expenses of fund	2,880 04	
On account of tax of 1855 refunded.....	292 36	
	<hr/>	\$381,228 90

SWAMP LANDS.

On account of drainage, &c	\$407,872 21
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BENEVOLENT INSTITUTIONS.

On account of Blind Asylum...	\$19,954 51	
On account of Deaf and Dumb Asylum.....	16,132 02	
On account of Hospital for Insane.....	26,778 46	
	<hr/>	\$62,864 99

TREASURY FUND.

On account of expense of fund.....	\$10 36
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ABSTRACTS FROM THE

CONGRESSIONAL TOWNSHIP FUND.

On account of expense of fund	\$4 00	
On account of interest distributed	53 46	
	<hr/>	\$57 46

UNIVERSITY FUND.

On account of professors' salaries.....	\$4,564 83	
On account of loans	4,850 00	
On account of damages refunded.....	12 50	
On account of interest refunded	21 00	
On account of expense of fund	219 24	
	<hr/>	\$9,667 57

SALINE FUND.

On account of expense of fund.....	\$124 51
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BANK TAX FUND.

On account of expense of fund.....	\$68 26
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SURPLUS REVENUE FUND.

On account of expense of fund.....	\$25 74
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MISCELLANEOUS.

On account of Colonization of free blacks	\$566 00	
On account of presidential election	954 07	
On account of Michigan Road lands	49 04	
On account of free banking....	3,327 00	
On account of interest on University bonds.....	4,085 10	
On account of distribution of laws.. ..	990 23	
On account of miscellaneous items.....	3,823 55	
On account of expenses of supreme court.....	2,476 80	
On account of Indiana reports	4,348 40	
	<hr/>	20,620 19

TREASURY NOTES.

On account of six per cents redeemed	\$1,330 00	
On account of interest on same	950 33	
On account of five per cents redeemed	250 00	
On account of interest on same	128 98	
On account of quarter per cents redeemed.....	60 00	
On account of interest on same	1 44	
	<hr/>	2,720 75

PUBLIC DEBT.

On account of interest and exchange	\$3,260 00	
On account of interest on State debt.....	318,027 74	
On account of salary of Agent	5,000 00	
On acc't of expenses of agency	3,850 20	
	<hr/>	330,137 94

WABASH AND ERIE CANAL.

General expenses of canal.....	\$17,513 71	
Ordinary repairs	69,919 66	
Extraordinary repairs.....	18,870 89	
Rebuilding bridges.....	1,241 61	
Superintendence.....	11,402 12	
Collection.....	8,075 81	
Construction, Terre Haute to Point Commerce.....	4,136 26	
Damages to water power.....	4,668 85	
Engineering.....	3,150 89	
Expense of land office east and west Tippecanoe.....	430 99	
Expense of land office Vincennes District	1,140 04	
Installment on advance by bondholders.....	81,220 00	
Interest on W. & E. C. stocks...	56,095 14	
Interest on advance by bondholders	40,182 20	
	<hr/>	\$318,047 67

Whole amount audited from Nov. 1, 1856,
to Oct. 31, 1857..\$1,748,756 69

STATE OF THE TREASURY.

Balance in the Treasury Nov. 1, 1856.....	\$624,735 03
Receipts into the Treasury from all sources during the year ending Oct. 31, 1857...	1,774,675 14
Total.....	<u>\$2,399,410 17</u>
Amount of warrants drawn on the Treas- ury on all accounts during the year end- ing Oct. 31, 1857.....	1,748,756 69
Balance in the Treasury Oct. 31, 1857.....	<u><u>\$650,653 48</u></u>

*A STATEMENT of the Receipts and Expenditures on
account of the various Trust Funds.*

UNIVERSITY FUND.

Receipts.

Balance on hand November 1, 1856.....	\$2,333 72
Loans refunded during the year.....	3,223 00
Interest on loans.....	5,347 43
Costs of advertising.....	4 00
	<u>\$10,908 15</u>

Disbursements.

Principal loaned during year	\$4,850 00
Professors' salaries.....	4,564 83
Damages refunded.....	12 50
Interest refunded.....	21 00
Expense of fund.....	219 24
	<u>\$9,667 57</u>
Bal. on hand November 1, 1857.....	<u><u>\$1,240 58</u></u>

LOAN ACCOUNT.

Amount outstanding on loan Nov. 1, 1856.	\$77,746 57
Loans refunded during the year.....	3,223 00
	<u>\$74,523 57</u>
New loans made during the year.....	4,850 00
Making loans outstanding	<u><u>\$79,373 57</u></u>

SALINE FUND.

Receipts.

Balance on hand November 1, 1856.....	\$10,749 52
Principal received during the year.....	5,997 83
Interest on loans	567 93
	<hr/>
	\$17,315 28

Expenditures.

Expense of fund	\$124 51
Balance on hand Nov. 1, 1857	17,190 77
	<hr/>
	\$17,315 28

LOAN ACCOUNT.

Amount outstanding on loan Nov. 1, 1856.	\$9,689 22
Loans refunded during the year	571 00
	<hr/>
Total outstanding on loan Nov. 1, 1857..	\$9,118 22

The sum of \$3,939 36 of principal of Saline Fund included in the foregoing statement, and the sum of \$633 64 of principal of Bank Tax fund embraced in receipts upon account of that Fund were paid in by the Branch Bank at Evansville, as dividends of the capital stock of that Branch standing in the name of the State on account of those funds. The original investment appears to have been made by an order of the Board of Commissioners of the Sinking Fund at their November session, 1841, under an act approved February 15, 1841, authorizing the investment of the various Trust Funds in the Bank stock of the different Branches of the State Bank. The amounts so subscribed were as follows:

On account of saline fund	\$4,924 20
On account of bank tax fund	792 07
	<hr/>

BANK TAX FUND.

Receipts.

Amount on hand Nov. 1, 1856.....	\$10,607 88
----------------------------------	-------------

ABSTRACTS FROM THE

Amount from banks under 15th section of charter.....	2,527 15
Amount from stocks of the Branch Bank	
Evansville	633 64
Loans refunded	366 66
Interest on loans.....	139 34
	<hr/>
	\$14,274 62

Expenditures.

Expense of fund.....	\$68 26
Bal. on hand October 31, 1857	14,206 36
	<hr/>
	\$14,274 62

The whole amount of this fund received under the 15th section of the charter of the State Bank of Indiana, up to Oct. 31, 1856, was..... \$61,484 65
The receipts for the year ending Oct. 31, 1857, were as follows, viz :

From Terre Haute Branch B'k	\$381 75
From Evansville Branch Bank	183 88
From Vincennes Branch Bank	147 12
From Lawrenceburgh Branch Bank.....	246 87
From Richmond Branch Bank	271 87
From Bedford Branch Bank...	129 41
From New Albany Branch B'k	217 75
From Michigan City Branch Bank.....	157 50
From Lafayette Branch Bank.	269 38
From South Bend Branch B'k	400 00
From Fort Wayne Branch B'k	121 62
	<hr/>
	2,527 15
Total receipts of fund	<hr/> 64,011 80

Under the act of 1845 the following amounts were distributed :

Amount apportioned for 1845.....	\$1,749 89
Amount apportioned for 1846.....	22,344 43
Amount apportioned for 1847.....	4,071 04
Amount apportioned for 1848.....	5,818 58
Amount apportioned for 1849.....	3,815 15
Amount apportioned for 1850.....	2,876 06
Amount apportioned for 1851.....	2,251 02

Amount apportioned for 1852.....	\$4,602 63
Amount apportioned for 1853.....	4,174 00
	<hr/>
	\$51,702 80

Since 1853 no general distribution has been made. The counties of Benton, Howard, Jasper, Pulaski, Starke, Tipton and Whitley having received no portion of the Surplus Revenue Fund, the balance of both the Bank Tax Fund and Saline Fund remaining on hand in 1854, was distributed to them in lieu thereof.

LOAN ACCOUNT.

Amount outstanding on Nov. 1, 1856.....	\$6,626 85
Loans refunded during the year.....	366 66
	<hr/>
Outstanding on loan Nov. 1, 1857.....	\$6,260 19

COUNTY SEMINARY FUND DERIVED FROM
MILITIA FINES.

Amount on hand October 31, 1857	<u>\$445 00</u>
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SURPLUS REVENUE FUND.

Receipts.

Balance on hand November 1, 1856.....	\$1,599 83
Interest on loans received during the year.	77 00
	<hr/>
	\$1,676 83

Expenditures.

Expense of fund.....	\$25 74
Balance on hand Nov. 1, 1857.	1,651 09
	<hr/>
	\$1,676 83

LOAN ACCOUNT.

Amount of loans outstanding.....	\$2,274 65
----------------------------------	------------

This fund belongs to the counties of Dekalb, Lake and Wells, they having failed to receive their portion at the time the distribution was made. The amount belonging to these counties originally was \$6,876 80,

which was loaned by the Treasurer. It has been reduced by payments to the counties of principal and interest as they have been collected. The balance on hand shows that there is now due to each one of the counties the sum of \$550 86. This is made up of principal refunded and accruing interest on loans outstanding.

CONGRESSIONAL TOWNSHIP FUND.

Receipts.

Balance on hand October 31, 1856.....	\$194 85
Loans refunded during the year.....	403 30
Interest on loans	19 75
	<hr/>
	\$617 90

Expenditures.

Expense of fund.....	\$4 00
Distributed to Greene county..	17 50
Distributed to Ripley county...	35 96
Balance on hand Oct. 31, 1857	560 44
	<hr/>
	\$617 90

This fund belongs to township No. 10, of range No. 13, in Ripley county, and township No. 6, of range No. 5, in Greene county.

THREE PER CENT. FUND.

Balance in the Treasury October 31, 1857..	\$32 13
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This balance belongs to the counties of Huntington, Steuben, Vanderburgh and Whitley. No advance has been made toward a settlement with the general government on account of this fund.

COMMON SCHOOL FUND DERIVED FROM SINKING FUND.

Balance on hand October 31, 1853.....	\$780,886 66
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Since the above date nothing has been received. The entire amount of the balance reported on hand, except the sum of \$27,061 51, was paid in bank script, and accrued interest thereon, issued by the State under the

act of 1842. This fund is a debt which the State owes to the Common School Fund, and bears interest at the rate of six per cent.

INDIANAPOLIS FUND.

Amount outstanding on loan \$483 30

No receipts or disbursements on account of this fund during the year.

TREASURY FUND.

Balance on hand October 31, 1856..... \$5,042 40

No receipts on account of this fund during the year.

Expenditures.

Expense of fund..... \$10 36

Balance on hand Oct. 31, 1857..... \$5,032 04

FUND FROM ESTATES WITHOUT HEIRS.

Balance on hand October 31, 1856 \$4,172 55

Received during the year..... 260 35

Amount on hand October 31, 1857..... \$4,432 90

A Statement of the Receipts and Expenditures on account of the Benevolent Institutions.

INSTITUTE FOR EDUCATING THE BLIND.

Receipts.

Balance on hand October 31, 1856..... \$3,340 14

Receipts during the year 3,627 58

\$6,967 72

Disbursements.

Expended during the year..... \$19,954 51

Amount overdrawn October 31, 1857..... \$12,986 79

ASYLUM FOR THE DEAF AND DUMB.

Receipts.

Balance on hand October 31, 1856.....	\$4,679 51
Receipts during the year.....	2,304 77
	<hr/>
	\$6,984 28

Disbursements.

Expended during the year.....	\$16,132 02
	<hr/>
Amount overdrawn Oct. 31, 1857.....	\$9,147 74
	<hr/>

HOSPITAL FOR THE INSANE.

Balance on hand October 31, 1856.....	\$17,694 97
Receipts during the year.....	4,409 67
	<hr/>
	\$22,104 64

Disbursements.

Expended during the year.....	\$26,778 46
	<hr/>
Amount overdrawn October 31, 1857.....	\$4,673 82
	<hr/>

THE STATE PRISON.

Expended during the year.....	\$50,991 24
Received during the year	80,827 62
	<hr/>
Excess of expenditures.....	\$20,163 62
Add amount of former appropriations over-	
drawn on the 31st of October, 1856	46,098 86
	<hr/>
Amount overdrawn October 31, 1857..	\$66,262 48

To explain the rather formidable excess of the expenditures over the receipts during the year, under the operation of the new prison law, it is necessary to state that the mileage of Sheriffs for taking convicts to the prison and other claims to a large amount have been charged to the State Prison account and contribute largely to make up this excess.

The following statement will more clearly demonstrate the operation of the new law for the government of the Prison:

Total expenditures during the year.....	\$50,991	24
Amount paid Sheriffs for mileage.....	\$6,570	90
Amount paid S. H. Patterson on purchase of old State Prison, &c.....	8,280	97
Amount paid Leroy Woods salary as Chaplain	1,130	47
	<hr/>	15,982 34
Leaves actual expenditures of Prison	\$35,008	90
Receipts during the year as above.....	30,827	62
	<hr/>	
Making excess of expenditures over receipts of.....	\$4,181	28

On account of State Prison proper, which amount is covered by the salaries of the Directors, Warden and other officers of the Prison whose accounts are by law audited quarterly at this office. It will be seen, therefore, that, with the exception of the salaries of the higher officers whose pay is established law, and payable out of the State Treasury, the current receipts of the prison for the year balance the expenditures. In the above statement an account is taken of labor of convicts expended by order of the Directors in building new cells for the Prison, and expenditures for other improvements of a permanent nature, all of which will probably be shown in the report of the Directors.

COMMON SCHOOL FUND DERIVED FROM CURRENT TAXES AND INTEREST UPON TRUST FUNDS.

OPERATIONS DURING THE YEAR 1857.

Receipts.

On account of delinquent tax of 1855 and previous years	\$29,204	27
On account of tax of 1855.....	8,326	92
On account of tax of 1854.....	7,428	22
On account of tax of 1856.....	295,578	99
On account of delinquent tax of 1856.....	21,853	43
On account of interest collected by county treasurers.....	53,729	01
	<hr/>	\$416,120 84

ABSTRACTS FROM THE AUDITOR'S REPORT.

Disbursements.

Expense of fund.....	\$2,880 04	
Taxes refunded.....	292 36	
Distributed to counties.....	378,056 50	
	<hr/>	381,228 90
Excess of receipts over disbursements.....		\$34,891 94
Add balance due the School Fund Oct. 31, 1856, as shown by the last annual report from this office		92,881 88
Makes total due from the State.....	\$127,773 82	<hr/>

SWAMP LAND FUND.

Receipts.

Balance on hand October 31, 1856.....	\$228,965 44
Receipts during the year.....	362,101 57
	<hr/>
	\$591,067 01

Disbursements.

Expended during the year	407,872 21
Balance on hand October 31, 1857.....	<hr/>
	\$183,194 80

ABSTRACTS FROM THE AUDITOR'S REPORT FOR THE YEAR 1858.

A General Statement of the Receipts and Expenditures during the fiscal year commencing November 1, 1857, and ending October 31, 1858.

RECEIPTS.

There was remaining in the Treasury, November 1, 1857..... \$650,653 48

During the year ending October 31, 1858, the following amounts were received, viz :

REVENUE.

On account of revenue of 1857.	\$7,890 19	
On account of delinquent revenue of 1856.....	47,176 39	
	<hr/>	\$55,066 58

STATE DEBT SINKING FUND.

On account of taxes of 1857...	\$47,069 84	
On account of delinquent tax of 1857.....	2,839 41	
On account of delinquent tax of 1856.....	4,227 60	
	<hr/>	54,136 85

COMMON SCHOOL FUND.

On account of tax of 1857.....	\$285,484 84
On account of tax of 1856.....	2,950 97

ABSTRACTS FROM THE

On account of delinquent tax of 1857.....	\$17,270 33	
On account of delinquent tax of 1856.....	26,395 42	
On account of delinquent tax of 1855.....	106. 43	
On account of interest collected 1856-7	695 10	
On account of interest collected 1857-8	55,008 20	
	<hr/>	\$389,911 29

TOWNSHIP LIBRARY FUND.

On account of delinquent library tax, 1855..	132 02
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SWAMP LANDS.

On account of sale.....	156,974 98
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BENEVOLENT INSTITUTIONS.

On account of Asylum for the Blind.....	\$1,027 12	
On account of Asylum for the Deaf and Dumb	2,920 09	
On account of Hospital for the Insane	2,063 07	
	<hr/>	6,010 28

CONGRESSIONAL TOWNSHIP FUND.

On account of interest.....	\$213 50	
On account of costs.....	4 00	
	<hr/>	217 50

SALINE FUND.

On account of principal.....	\$4,231 86	
On account of interest	1,345 57	
On account of damages	36 07	
On account of costs.....	14 00	
	<hr/>	5,627 50

INDIANAPOLIS FUND.

On account of principal.....	\$222 85
On account of interest	226 68

AUDITOR'S REPORT.

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On account of damages.....	\$20 01	
On account of costs	4 00	
On account of excess of sales...	614 88	
	<hr/>	\$1,088 42

SURPLUS REVENUE FUND.

On account of interest.....	234 44
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BANK TAX FUND.

On account of principal.....	\$4,840 16	
On account of interest	810 14	
On account of damages	22 80	
On account of costs.....	10 00	
	<hr/>	5,188 10

UNIVERSITY FUND.

On account of principal.....	\$6,615 50	
On account of interest.....	7,054 27	
On account of damages.....	258 12	
On account of costs.....	62 00	
On account of excess of sales ..	864 80	
	<hr/>	14,854 69

STATE PRISON.

On account of current receipts.....	36,296 90
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MISCELLANEOUS.

On account of fuel and stationery.....	\$17 00	
On account of general fund.....	755 00	
	<hr/>	772 00

WABASH AND ERIE CANAL.

On account of tolls and water rents	\$60,767 94	
On account of lands east and west of Tippecanoe.....	10,161 06	
On account of lands in Vincennes District	46,016 00	
On account of interest and deposits	80 44	

ABSTRACTS FROM THE

On account of miscellaneous receipts	884 85	
		<u>\$117,910 29</u>

Total receipts from November 1, 1857, to October 31, 1858, including balance on hand November 1, 1857.....		<u><u>1,495,070 32</u></u>
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DISBURSEMENTS.

The disbursements during the fiscal year ending October 31, 1858, were as follows:

ORDINARY EXPENDITURES.

On account of legislative expenses	\$89 55	
On account of supreme and circuit judges	19,815 78	
On account of executive officers	7,600 00	
On account of public printing and binding.....	21,403 83	
On account of fuel and stationery	8,153 00	
On account of Gov.'s House ...	749 46	
On account of State House.....	1,887 12	
On account of prosecuting attorneys.....	4,185 76	
On account of State Library...	2,895 53	
On account of militia.....	311 75	
On account of contingent fund	2,320 20	
On account of specific appropriations	6,160 65	
		<u>\$75,572 63</u>

REVENUE.

On account of revenue refunded.....	137 41
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TOWNSHIP LIBRARY FUND.

On account of expenses of libraries.....	29 96
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COMMON SCHOOL FUND.

On account of distribution of fund	\$328,331 10	
On account of expense of fund	2,236 00	
On account of interest refunded	306 37	
		<u>330,873 47</u>

AUDITOR'S REPORT.

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STATE DEBT SINKING FUND.

On account of purchase of stocks..... \$8,145 60

SWAMP LANDS.

On account of drainage, &c..... 194,759 21

BENEVOLENT INSTITUTIONS.

On account of institute for the
blind..... \$12,930 07

On account of asylum for the
deaf and dumb..... 37,890 95

On account of hospital for the
insane 32,394 81

83,215 83

STATE PRISON.

On account of current expenses \$44,296 90

On account of salaries of offi-
cers 5,000 00

On account of sheriffs' mileage 10,113 55

59,410 45

BANK TAX FUND.

On account of expense of fund \$105 63

On account of costs..... 6 00

111 63

SURPLUS REVENUE FUND.

On account of expense of fund \$28 34

On account of costs 1 50

29 93

UNIVERSITY FUND.

On account of principal loaned \$4,475 00

On account of professors' sala-
ries..... 4,925 00

On account of costs..... 62 50

On account of damages..... 17 50

On account of excess of sales... 388 15

On account of expense of fund 599 88

10,468 03

CONGRESSIONAL TOWNSHIP FUND.

On account of interest distrib-
uted to Greene county \$17 50

ABSTRACTS FROM THE

On account of costs.....	4 00	
On account of expense of fund	4 50	
	<hr/>	26 00

TREASURY FUND.

On account of expense of fund	\$10 36	
On account of costs.....	1 50	
	<hr/>	11 86

SALINE FUND.

On account of principal re- funded.....	\$14 75	
On account of expense of fund	157 18	
On account of costs.....	12 00	
	<hr/>	183 93

INDIANAPOLIS FUND.

On account of expense of fund	\$24 53	
On account of costs.....	1 50	
On account of excess of sales refunded.....	614 88	
	<hr/>	640 91

MISCELLANEOUS.

On account of colonization.....	\$500 00	
On account of free banking....	6,651 89	
On account of agriculture.....	1,000 00	
On account of interest on Uni- versity bonds.....	3,935 10	
On account of distribution of laws.....	726 90	
On account of estates without heirs.....	54 92	
On account of miscellaneous items	2,366 23	
On account of expenses of Su- preme Court.....	2,559 36	
On account of Indiana Reports	1,869 48	
	<hr/>	19,663 88

AUDITOR'S REPORT.

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PUBLIC DEBT.

On account of interest paid.....	\$317,092 63	
On account of salary of agent..	1,875 00	
On account of expenses of agent.....	1,647 12	
On account of interest and exchange.....	4,630 00	
	<hr/>	325,244 75

WABASH AND ERIE CANAL.

General expenses.....	\$18,335 66	
Ordinary repairs.....	97,357 30	
Extraordinary repairs.....	8,340 93	
Rebuilding bridges.....	1,849 30	
Superintendence.....	9,072 64	
Collection.....	8,581 78	
Construction from Terre Haute to Point Commerce.....	1,006 26	
Damages and water power.....	4,401 33	
Engineering.....	2,285 13	
Expense of Land Office, Vincennes district.....	1,212 32	
Expense of Land Office E. and W. of Tippecanoe.....	97 63	
Installment on advance by bondholders.....	570 00	
Interest on advance and exchange.....	35,355 88	
Suspended debt.....	6,736 40	
	<hr/>	255,202 56

Whole amount audited from November 1,
1857, to October 31, 1858.....\$1,363,728 04

STATE OF THE TREASURY.

Balance in the treasury October 31, 1857..	\$650,653 48
Receipts into the treasury from all sources during the year ending October 31, 1858	844,416 84
Total.....	<u>\$1,495,070 32</u>

ABSTRACTS FROM THE

Amount of warrents drawn on the treasury on all accounts during the year ending October 31, 1858.....\$1,863,728 04

Balance in the treasury, Oct. 31, 1853 \$181,342 28

A statement of the receipts and expenditures on account of the various trust funds.

UNIVERSITY FUND.

Receipts.

Balance on hand October 31, 1857.....	\$1,240 58
Loans refunded during the year.....	6,615 50
Interest on loans.....	7,054 27
Costs of advertising.....	62 00
Damages.....	258 12
Excess of sales.....	864 80
Total.....	<u>\$16,095 27</u>

Disbursements.

Principal loaned.....	\$4,475 00
Professors' salaries.....	4,925 00
Damages refunded.....	17 50
Costs of advertising.....	62 50
Excess of sales refunded.....	388 15
Expense of fund.....	599 88
	<u>\$10,468 03</u>
Balance on hand, November 1, 1858...	<u>\$5,627 24</u>

Loan Account.

Amount outstanding November 1, 1857....	\$79,373 57
Loans refunded during the year.....	6,615 50
Total.....	<u>\$72,758 07</u>
Principal loaned.....	4,475 00
Making loans outstanding.....	<u>\$77,233 07</u>

AUDITOR'S REPORT.

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SALINE FUND.

Receipts.

Balance on hand October 31, 1857.....	\$17,190 76
Principal received.....	4,231 86
Interest received.....	1,345 57
Damages received.....	36 07
Costs received.....	14 00
Total.....	<u>\$22,818 27</u>

Disbursements.

Principal refunded.....	\$14 75	
Costs of advertising.....	12 00	
Expense of fund.....	157 18	
	<u>183 93</u>	
Balance on hand October 31, 1858.....	<u>\$22,634 34</u>	

Loan Account.

Amount outstanding on loan Oct. 31, 1857	\$9,118 22
Loans refunded during the year.....	570 00
Leaving loans outstanding Oct. 31, 1858....	<u>\$8,548 22</u>

BANK TAX FUND.

Receipts.

Balance on hand Oct. 31, 1857.....	\$14,206 36
Received from branch banks under charter	3,544 12
Proceeds of stock of branch bank, Evansville	396 04
Loans refunded	400 00
Interest	810 14
Damages.....	22 80
Costs.....	10 00
	<u>\$19,389 46</u>

Disbursements.

Expense of fund.....	\$105 63	
Costs of advertising.....	6 00	
		<hr/>
		111 63
Balance on hand Oct. 31, 1858.....	\$19,277 81	

Loan Account.

Outstanding on loan, Oct. 31, 1857.....	\$6,260 19
Loans refunded during the year.....	400 00
	<hr/>
Outstanding on loan Oct. 31, 1858.....	\$5,860 19

The whole amount of this fund received under the 15th section of the charter of the State Bank of Indiana, up to October 31, 1857, was \$64,011 80

The receipts during the year ending Oct. 31, 1858, were as follows:

From Terre Haute branch b'k,	\$381 75	
From Evansville branch bank,	183 37	
From Vincennes branch bank,	147 13	
From Lawrenceburgh branch bank	246 87	
From Richmond branch bank..	271 87	
From Bedford branch bank. ...	129 41	
From New Albany branch b'k,	217 75	
From Michigan City branch bank.....	157 50	
From Lafayette branch bank...	269 37	
From South Bend branch b'k..	200 00	
From Fort Wayne branch b'k..	121 62	
From Madison branch bank....	632 74	
From Indianapolis branch b'k,	584 24	
		<hr/>
		3,544 12
Total receipts.....	\$67,555 92	

Under the act of 1845 the following amounts were distributed:

Amount apportioned for 1845.....	\$1,749 89
Amount apportioned for 1846.....	22,344 43
Amount apportioned for 1847.....	4,071 04

AUDITOR'S REPORT.

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Amount apportioned for 1848.....	5,818 58
Amount apportioned for 1849.....	3,815 15
Amount apportioned for 1850.....	2,876 06
Amount apportioned for 1851.....	2,251 02
Amount apportioned for 1852.....	4,602 63
Amount apportioned for 1853.....	4,174 00
	<hr/>
	\$51,702 80
	<hr/>

Since 1853 no general distribution has been made. The counties of Benton, Howard, Jasper, Pulaski, Starke, Tipton and Whitey having received no portion of the surplus revenue fund, the balance of both the bank tax fund and saline fund remaining on hand in 1854, was distributed to them in lieu thereof.

COUNTY SEMINARY FUND DERIVED FROM MILITIA FINES.

Amount on hand Oct. 31, 1858.....	\$445 00
-----------------------------------	----------

SURPLUS REVENUE FUND.

Receipts.

Balance on hand Oct. 31, 1857.....	\$1,651 09
Interest on loans.....	234 44
	<hr/>
	\$1,885 53

Disbursements.

Expense of Fund.....	\$28 43
Costs	1 50
	<hr/>
	29 93
Balance on hand Oct. 31, 1858.....	<hr/>
	\$1,855 60

Loan Account.

Amount of loans outstanding.....	\$2,274 65
----------------------------------	------------

This fund belongs to the counties of DeKalb, Lake and Wells in equal portions.

ABSTRACT FROM THE
CONGRESSIONAL TOWNSHIP FUND.

Receipts.

Balance on hand Oct. 31, 1857.....	\$560 44
Interest on loans.....	213 50
Costs.....	4 00
	<hr/> \$777 94

Disbursements.

Interest distributed to Greene county.....	\$17 50
Costs	4 50
Expense of fund	4 00
	<hr/> \$26 00
Balance on hand Oct. 31, 1858.....	<hr/> \$751 94

This shows the condition of the fund as handed down from year to year by the published reports of this office. The actual amount on hand for distribution is \$253 30, which belongs, by an arrangement made some years ago, to the county of Ripley. There is besides one loan of \$250 00 outstanding, belonging to Greene county, the interest of which is annually paid to her treasurer. When these two principal sums shall be refunded to the counties to which they belong, the State will have fulfilled the trust reposed in her by those counties, and the balance remaining on hand will revert to the State treasury.

THREE PER CENT. FUND.

Balance in the treasury Oct. 31, 1857.....	\$32 13
--	---------

This balance belongs to the counties of Huntington, Steuben, Vanderburgh and Whitley. No advance has been made toward a settlement with the General Government on account of this fund.

COMMON SCHOOL FUND DERIVED FROM SINKING FUND.

Balance on hand Oct. 31, 1853.....	\$780,885 66
------------------------------------	--------------

Since the above date nothing has been received. The entire amount of the balance reported on hand, except

the sum of \$27,061 51, was paid in bank scrip, and accrued interest thereon, issued by the State under the act of 1842. This fund is a debt which the State owes to the common school fund, and bears interest at the rate of six per cent.

INDIANAPOLIS FUND.

Receipts.

Loans refunded	\$222 85
Interest on loans.....	226 68
Damages.....	20 01
Costs.....	4 00
Excess on sales.....	614 88
	<hr/>
	\$1,088 42

Disbursements.

Expense of fund	\$24 53
Costs.....	1 50
Excess on sales refunded.....	614 88
	<hr/>
	640 91
	<hr/>
Balance on hand Oct. 31, 1858.....	\$447 51

Loan Account.

Outstanding on loan Oct. 31, 1857.....	\$483 30
Loans refunded during the year.....	222 85
	<hr/>
Outstanding on loan Oct. 31, 1858.....	\$250 45

TREASURY FUND.

Receipts.

Balance on hand Oct. 31, 1857.	\$5,042 40
-------------------------------------	------------

Disbursements.

Expense of fund	\$10 36
Costs.....	1 50
	<hr/>
	11 86
	<hr/>
Balance on hand Oct. 31, 1858.	\$5,030 54

ABSTRACT FROM THE
FUND FROM ESTATES WITHOUT HEIRS.

Receipts.

Balance on hand Oct. 31, 1857.....	\$4,432 90
------------------------------------	------------

Disbursements.

Amount refunded to appearing heirs.....	\$54 92
Balance on hand Oct. 31, 1858..	\$4,377 98

Under the Constitution this forms a part of the common school fund.

SWAMP LAND FUND.

Receipts.

Balance on hand Oct. 31, 1857.....	\$183,194 80
Received during the year.....	156,974 98
	\$340,169 78

Disbursements.

Expended during the year	\$194,759 21
Balance on hand Oct. 31, 1858.....	\$145,410 57

*A Statement of the Receipts and Expenditures on Account
of the Benevolent Institutions.*

INSTITUTION FOR EDUCATING THE BLIND.

Receipts.

Receipts during the year.....	\$1,027 12
-------------------------------	------------

Disbursements.

Amount overdrawn Oct. 31, '57	\$12,986 79
Expended during the year.....	12,930 07
	25,916 86
Overdrawn October 31, 1858.....	\$24,889 74

ASYLUM FOR THE DEAF AND DUMB.

Amount overdrawn October 31, 1857.....	\$9,147 74
Expended during the year	37,890 95
	<hr/>
	\$47,038 69
Receipts during the year.....	2,920 09
	<hr/>
Overdrawn October 31, 1858.....	<u>\$44,118 60</u>

HOSPITAL FOR THE INSANE.

Amount overdrawn October 31, 1857	\$4,673 82
Expended during the year	32,394 81
	<hr/>
	\$37,068 63
Receipts during the year.....	2,063 07
	<hr/>
Overdrawn October 31, 1858	<u>\$35,005 56</u>

STATE PRISON.

Receipts.

Current receipts of prison.....	\$36,296 90
---------------------------------	-------------

Disbursements.

Current expenses of prison	\$44,296 90
Salaries of officers	5,000 00
Sheriffs' mileage.....	10,113 55
	<hr/>
	\$59,410 45
Excess of expenditures	\$23,113 55
Add amount overdrawn October 31, 1857...	66,262 48
	<hr/>
Overdrawn October 31, 1858.....	<u>\$89,376 03</u>

COMMON SCHOOL FUND DERIVED FROM CURRENT TAXES AND INTEREST
UPON TRUST FUNDS.*Receipts.*

On account of tax of 1857.....	\$285,484 84
On account of tax of 1856.....	2,950 97
On account of delinquent tax of 1857.....	19,270 33
On account of delinquent tax of 1856.....	26,395 42
On account of delinquent tax of 1855.....	106 43
On account of school fund interest, 1856-7.	695 10
On account of school fund interest, 1857-8.	55,008 20
	<hr/>
	<u>\$389,911 29</u>

Disbursements.

Expense of fund	\$2,236 00	
Interest refunded.....	306 37	
Distributed to counties	328,331 10	
	<hr/>	\$330,873 47
Excess of receipts over disbursements	\$59,087 82	
Add balance due the fund October 31, 1857	127,773 82	
	<hr/>	
Makes total due from the State	\$186,861 64	
	<hr/>	

Statement of the several appropriation accounts, showing the amounts expended during the last two years, with the balances unexpended and appropriations overdrawn, on the 31st of October, 1858 :

The passage of an appropriation bill to meet the deficiencies existing in the ordinary appropriation accounts as shown by this statement, will be necessary in order to legalize the action of the treasury department in sustaining the State government during the last two years. The attention of the Legislature is respectfully solicited to the subject.

EXECUTIVE OFFICERS.

Balance of former appropriation unexpended Nov. 1, 1856		\$13,430 91
Expended during the year 1857	\$5,413 20	
Expended during the year 1858	7,600 00	
	<hr/>	13,013 20
Balance unexpended.....		\$417 71

JUDICIARY.

Balance of former appropriation unexpended Nov. 1, 1856.....		\$8,578 95
Expended during the year 1857	\$19,260 60	
Expended during the year 1858	19,815 76	
	<hr/>	39,076 38
Appropriation overdrawn		\$30,497 43

PUBLIC PRINTING.

Appropriation overdrawn Nov. 1, 1856.....	\$7,776 78
Expended during the year 1857.....	18,408 51
Expended during the year 1858.....	21,403 83
	<hr/>
Appropriation overdrawn.....	<u>\$47,589 12</u>

STATE HOUSE.

Appropriation overdrawn Nov. 1, 1856.....	\$2,311 11
Expended during the year 1857.....	2,915 31
Expended during the year 1858.....	1,887 12
	<hr/>
Appropriation overdrawn	<u>\$7,113 54</u>

STATE LIBRARY.

Appropriation overdrawn Nov. 1, 1856.....	\$449 36
Expended during the year 1857.....	1,251 03
Expended during the year 1858.....	2,895 53
	<hr/>
Appropriation overdrawn	<u>\$4,595 92</u>

PROSECUTING ATTORNEYS.

Appropriation overdrawn Nov. 1, 1856.....	\$1,567 82
Expended during the year 1857.....	3,770 07
Expended during the year 1858.....	4,185 76
	<hr/>
Appropriation overdrawn	<u>\$9,523 65</u>

MILITIA.

Appropriation overdrawn Nov. 1, 1856.....	\$434 73
Expended during the year 1857.....	327 41
Expended during the year 1858.....	311 75
	<hr/>
Appropriation overdrawn	<u>\$1,073 89</u>

ABSTRACTS FROM THE

GOVERNOR'S HOUSE.

Appropriation overdrawn Nov. 1, 1856.....	\$555 42
Expended during the year 1857.....	2,045 51
Expended during the year 1858.....	749 46
	<hr/>
	\$3,350 39
Received during the year 1857.....	11 00
	<hr/>
Appropriation overdrawn	<u>\$3,339 39</u>

FUEL AND STATIONERY.

Balance of former appropriation unexpended Nov. 1, 1856.....	\$1,400 79
Received during the year 1858.....	17 00
	<hr/>
	\$1,417 79
Expended during the year 1857	\$7,615 47
Expended during the year 1858	8,153 00
	<hr/>
	15,768 47
	<hr/>
Appropriation overdrawn	<u>\$14,350 68</u>

STATE PRISON.

Receipts during the year 1857.....	\$30,827 62
Receipts during the year 1858.....	36,296 90
	<hr/>
	\$67,124 52
Appropriation overdrawn Nov. 1, 1856	\$46,098 86
Expended during the year 1857	50,991 24
Expended during the year 1858	59,410 45
	<hr/>
	156,500 55
	<hr/>
Appropriation overdrawn	<u>\$89,376 03</u>

DISTRIBUTION OF LAWS AND JOURNALS.

Balance of former appropriation unexpended Nov. 1, 1856.....	\$479 89
--	----------

Expended during the year 1857	\$990 23	
Expended during the year 1858	726 90	
		<u>1,717 13</u>
Appropriation overdrawn		<u><u>\$1,237 24</u></u>

GOVERNOR'S CONTINGENT FUND.

Appropriation overdrawn November 1, 1856	\$1,374 93	
Expended during the year 1857.....	2,383 17	
Expended during the year 1858.....	2,320 20	
		<u>6,078 30</u>
Appropriation overdrawn		<u><u>\$6,078 30</u></u>

EXPENSES OF SUPREME COURT.

Appropriation overdrawn November 1, 1856	\$772 00	
Expended during the year 1857.....	2,476 80	
Expended during the year 1858.....	2,559 36	
		<u>5,808 16</u>
Appropriation overdrawn		<u><u>\$5,808 16</u></u>

REPORTS OF SUPREME COURT.

Appropriation overdrawn Nov. 1, 1856.....	\$1,773 84	
Expended during the year 1857.....	4,348 40	
Expended during the year 1858.....	1,869 48	
		<u>7,991 72</u>
Appropriation overdrawn		<u><u>\$7,991 72</u></u>

MISCELLANEOUS.

Appropriation overdrawn Nov. 1, 1856.....	\$702 21	
Expended during the year 1857.....	3,823 55	
Expended during the year 1858.....	2,366 23	
		<u>6,891 99</u>
Received during the year 1857..	\$1,010 39	
Received during the year 1858..	755 00	
		<u>1,765 39</u>
Appropriation overdrawn		<u><u>\$5,126 60</u></u>

ABSTRACTS FROM THE

HOSPITAL FOR THE INSANE.

Balance of former appropriation unexpended November 1, 1856.....	\$17,694 97
Receipts during the year 1857.....	4,409 67
Receipts during the year 1858.....	2,063 07
	<hr/>
	\$24,167 71
Expended during the year 1857..	\$26,778 46
Expended during the year 1858..	32,394 81
	<hr/>
	59,173 27
	<hr/>
Appropriation overdrawn	<u>\$35,005 56</u>

INSTITUTE FOR THE EDUCATION OF THE BLIND.

Balance of former appropriation unexpended November 1, 1856.....	\$3,340 14
Receipts during the year 1857.....	3,627 58
Receipts during the year 1858.....	1,027 12
	<hr/>
	\$7,994 84
Expended during the year 1857..	\$19,954 51
Expended during the year 1858..	12,930 07
	<hr/>
	32,884 58
	<hr/>
Appropriation overdrawn.....	<u>\$24,889 74</u>

ASYLUM FOR THE DEAF AND DUMB.

Balance of former appropriation unexpended November 1, 1856.....	\$4,679 51
Receipts during the year 1857.....	2,304 77
Receipts during the year 1858.....	2,920 09
	<hr/>
	\$9,904 37
Expended during the year 1857..	\$16,132 02
Expended during the year 1858..	37,890 95
	<hr/>
	54,022 97
	<hr/>
Appropriation overdrawn.....	<u>\$44,118 60</u>

SUMMARY.

Balance in treasury Nov. 1, 1856.....	\$624,735 03
Total receipts for year ending October 31, 1857.....	1,774,675 14
	<hr/>
	\$2,399,410 17
Total expenditures for year ending Oct. 31, 1857.....	1,748,756 69
	<hr/>
Leaving bal. in treasury Nov. 1, 1857...	\$650,653 48
Total receipts for year ending Oct. 31, 1858	844,416 84
	<hr/>
	\$1,495,070 32
Total expenditures for year ending Oct. 31, 1858.....	1,363,728 04
	<hr/>
Balance in the Treasury Nov. 1, 1858.....	<u><u>\$131,342 28</u></u>

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